

APPENDIX 12.2

(referred to in paragraphs 2.193, 2.194, 2.346, 2.383, 3.193, 3.194, 3.444, 3.380, 4.190, 4.345, 4.382, 5.178, 5.179, 6.9, 12.1, 12.14, 12.24, 12.103, 12.105, 12.114, 12.130, 12.136, 12.153 and 12.154)

Observations on the behaviour of suppliers of reference brown goods relating to withholding supply from dealers

1. We received observations about the behaviour of suppliers of reference brown goods relating to the second complex monopoly situation (withholding supply from dealers) from:

- (a)* multiple retailers (that is, those with five outlets or more), mail order companies, warehouse clubs, and wholesalers in their responses to the postal questionnaires and in hearings with them;
- (b)* statements made to our interviewers during the survey of small retailers;¹
- (c)* further discussions with small retailers, following up *(b)*;
- (d)* correspondence with the parties identified above; and
- (e)* media reports.

2. We received a total of 408 observations: 111 relating to televisions; 108 to VCRs; 120 to hi-fi systems; and 69 to camcorders. We did not pursue 245 of them, either because they lacked sufficient detailed evidence for us to pursue them further (see paragraph 6.6) or because the points made were outside our terms of reference.

3. All but eight of the remaining 163 observations, 46 relating to televisions; 40 to VCRs; 44 to hi-fi systems; and 25 to camcorders, and suppliers' comments on them, are set out here. In some cases the supplier did not accept the facts as presented by the dealer and gave us a different account of events. In such cases we went back to the dealer; and his response is recorded below the supplier's comments.

4. Some retailers requested that their identities should not be revealed to the suppliers concerned. In all such cases and after careful consideration we acceded to these requests (see paragraphs 6.7 and 6.8). We have identified these observations by the use of a code number (for example, SRS 123). We sought comments from the suppliers concerned but in most cases they declined to respond without being presented with a full account of the case, including the dealer's identity. In some cases, we asked retailers to reconsider their requests for anonymity. None were willing to forgo it. In reaching our conclusions we relied on three of the eleven observations in which the dealer has not been named (because the supplier effectively accepted what the retailer had said). However, we did not rely on the eight remaining cases where the dealer wanted to remain anonymous nor in 34 other cases where there was a conflict of evidence between the dealer and the supplier which we were unable to resolve.

5. In 121 cases: 35 relating to televisions, 33 to VCRs, 33 to hi-fi systems, and 20 to camcorders, we accepted the dealer's account and relied on them in reaching our conclusions. One hundred and thirteen of them are denoted here by an asterisk following the name or code number of the dealer. The other two cases about which we reached a conclusion are described in paragraphs 12.138 and 12.139 (Makro and Panasonic) and in paragraph 12.132 (Cargo Club and Sony) (in both cases relating to all four reference goods).

¹See paragraph 6.11.

Televisions

B&O

A1 **JLP***

(a) Dealer's observation

JLP told us that it had wished to sell some models of B&O's televisions in a few branches. But it was unable to do so because B&O had stipulated that JLP should stock a minimum range, presented in a way that did not suit it.

(b) Supplier's response

B&O told us that it considered a minimum stocking requirement and its required presentation were essential parts of its distribution system. The former ensured that consumers were offered a choice of products whilst the latter not only reinforced the quality image of the B&O brand name but ensured that consumers received the best available pre-sale information.

A2 **Sevenoaks Hi-Fi & Video***

(a) Dealer's observation

Sevenoaks Hi-Fi & Video (Sevenoaks Hi-Fi) told us that B&O had terminated its dealer agreement with Sevenoaks Hi-Fi's Tunbridge Wells branch when it moved 100 yards down the road to larger premises on the grounds that the agreement was specific to the original site. B&O had refused to discuss the matter and soon afterwards had appointed a new solus B&O dealership in the area.

(b) Supplier's response

B&O said that its contract with Sevenoaks Hi-Fi in respect of its Tunbridge Wells branch was premises-specific; B&O was entitled to terminate the dealership if Sevenoaks Hi-Fi moved to alternative premises without first obtaining the prior written consent of B&O. Sevenoaks Hi-Fi had failed to inform B&O or discuss its plans to move to the new premises. In particular, there had been no discussion about dedicated sales staff, staff training or fixture and fittings.

(c) Dealer's response

Sevenoaks Hi-Fi responded by telling us that it contested B&O's contention that it had failed to inform B&O or discuss its plans to move to the new premises. The plans had been discussed at meetings between the Managing Director of Sevenoaks Hi-Fi and the local B&O representative. It was not normal for notice in writing to be insisted upon when there was an active dealer/supplier relationship. B&O had made no comment, written or otherwise, that Sevenoaks Hi-Fi would need to obtain specific written permission to move the B&O account 100 yards down the road. There had been discussion between Sevenoaks Hi-Fi and B&O concerning fixtures and fittings at the new store as Sevenoaks Hi-Fi was making specific space available for B&O products. There had been no need for specific discussion about staff and training as the staff had not changed.

A3 **MacPhersons Home Electrics**

(a) Dealer's observation

Mr MacPherson of MacPhersons Home Electrics, Harborne, Birmingham, told us that he was refused supply of B&O televisions in 1993 on the grounds that he was selling white goods on the same premises.

(b) Supplier's response

B&O told us that it did not have any recollection or written record of Mr MacPherson's application to become a dealer. The reason he gave for B&O's refusal to supply him seemed somewhat curious in view of the fact that B&O currently had a number of dealers that also sold white goods on the same premises.

Grundig

A4 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that Grundig would not supply it with televisions.

(b) Supplier's response

Grundig sent us a copy of a letter it had written to the OFT on 14 September 1994 explaining its reasoning for not supplying PriceCostco. In that letter Grundig said that it believed PriceCostco was unable to comply with Grundig's Dealer Agreement because:

- (i) it was not a specialist retailer or normal retail outlet;
- (ii) it was not open to all members of the public, ie it excluded non-members;
- (iii) it would not be displaying the product in the required manner;
- (iv) its sales staff would not be trained in product knowledge to professional levels;
- (v) Grundig dealers were required to display a fully representative range;
- (vi) Grundig products had to be checked prior to supply to a consumer to ensure adequate serviceability;
- (vii) Grundig was not aware of any suitable service arrangements for its product at PriceCostco;
- (viii) PriceCostco operated a self-service/take-away pricing policy; and
- (ix) Grundig did not believe PriceCostco had adequate systems to record the information required in Grundig's Dealer Agreement.

Hitachi

A5 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that, as at 21 July 1995, Hitachi would not discuss supply of televisions with it.

(b) Supplier's response

Hitachi said that it was not aware of refusing to discuss supply with PriceCostco on 21 July 1995. PriceCostco had an established channel of communication with Hitachi's Director of Sales and Marketing and he was not

aware of there being any approach then.

(c) Dealer's response

PriceCostco responded by telling us that its buyer had left at least six messages for Hitachi's Director of Sales and Marketing during the autumn and winter of 1995. There had been no response and PriceCostco's buyer had finally given up.

JVC

A6 ***Cargo Club****

(a) Dealer's observation

N&P told us that JVC had refused to supply its Cargo Club operation with televisions.

(b) Supplier's response

JVC said that, at N&P's request, a meeting had taken place between JVC and N&P on 18 August 1993 at which N&P had explained its then proposed Cargo Club venture. At that time there had been no Cargo Club premises anywhere in the UK so it had been impossible for JVC to carry out its usual inspection of trading premises to ascertain whether Cargo Club would have satisfied JVC's dealership criteria. In addition, N&P had not been able to produce the financial information about Cargo Club which JVC would have needed to open an account. JVC had suggested that N&P should approach it again when Cargo Club was ready to begin trading.

On 11 November 1993 N&P had told JVC that it was still interested in Cargo Club becoming a JVC authorized dealer. However, as the trading premises of Cargo Club could still not be inspected, and no further information about its financial position was available, JVC had written to N&P on 3 December 1993, stating that JVC was not in a position to provide N&P with an account.

JVC had attended the opening ceremony of the first Cargo Club outlet which opened in the UK in March 1994. No discussions had taken place at that event about Cargo Club opening an account with JVC. An article in *ERT* in August 1994, in which JVC had said that Cargo Club had been unable to meet its requirements for supply, had prompted Cargo Club to contact JVC again. JVC had then suggested that Cargo Club should renew its application for an account, but it did not do so. JVC believed that the fact that Cargo Club had gone out of business about a year after commencing trading underlined the correctness of JVC's policy of going through the proper procedures when opening an account.

(c) Dealer's response

N&P responded by telling us that Cargo Club had been a direct subsidiary of N&P and would have had the backing and guarantees of its parent. N&P believed JVC was simply stalling and using the financial criteria as an excuse. Cargo Club had ceased trading but it had not gone out of business (in the sense that all its creditors were paid in full).

A7 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that in a letter of 1 November 1994 JVC stated, not for the first time, that it would not supply PriceCostco with televisions.

(b) Supplier's response

JVC told us that, in April 1993, PriceCostco had attended the JVC Trade Show where it had discussed with JVC the possibility of PriceCostco becoming an authorized JVC dealer. A meeting between JVC and PriceCostco had followed on 13 May 1993. At this meeting, PriceCostco had explained its operations in the USA and its intentions in relation to the UK. At that time, PriceCostco had not begun to trade in the UK so JVC had been unable to carry out its usual inspection of trading premises. As a result, JVC had written to PriceCostco on 24 May 1993 advising it to contact JVC again when ready to open for business.

When PriceCostco opened warehouse clubs in Thurrock and Watford, in November 1993 and June 1994 respectively, JVC had not been asked to supply those outlets. However, JVC heard that PriceCostco in Watford was stocking JVC products; JVC had therefore visited PriceCostco on 18 August 1994 to see what stock was being held and to ascertain if PriceCostco was able to comply with JVC's Dealership Agreement.

On 6 October 1994, at PriceCostco's invitation, JVC had attended a meeting at PriceCostco in Watford at which JVC had advised PriceCostco of JVC's account criteria and the terms of its Dealership Agreement. JVC said that it and PriceCostco had agreed that the only provision with which PriceCostco could comply was the clause which required that the dealer should maintain an adequate supply and stock of free leaflets and brochures on JVC's products. In particular, PriceCostco had stated that the reason it could not comply with JVC's other requirements was that PriceCostco was not actually a retailer but rather like a social club selling products to members.

PriceCostco had asked JVC if it could prepare a contract specially tailored to meet PriceCostco's method of trading. JVC had refused to do so. It had explained that all JVC products were sold subject to its Dealership Agreement which could not be varied between dealers. JVC had advised PriceCostco that it would reconsider PriceCostco's application for an account if it could meet the criteria of JVC's Dealership Agreement, and present a business plan to enable JVC to satisfy itself about PriceCostco's creditworthiness. PriceCostco had replied that it was not its policy to supply such financial and business information to a supplier. On 24 October 1994 JVC had written to PriceCostco confirming the reasons why it could not open an account at that time. PriceCostco had replied on 27 October 1994 but nothing in its letter had led JVC to change its view that PriceCostco could not comply with its Dealership Agreement. JVC had written to PriceCostco on 1 November 1994 confirming the position; and indicating that it was ready to reconsider the application if PriceCostco were able to comply with its Dealership Agreement terms. JVC had not received any further formal requests from PriceCostco to reconsider its application for an account.

A8 ***Brighton Audio and TV****

(a) Dealer's observation

Mr Goble of Brighton Audio and TV (BAT), Brighton, Sussex, told us that he had been refused supply of JVC televisions during 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

JVC told us that, after preliminary discussions with BAT, it had refused to appoint BAT as an authorized dealer in 1993.

A9 ***N&P***

(a) Dealer's observation

N&P told us that it had been refused supply of televisions by JVC.

(b) Supplier's response

JVC told us that it had never received a request for supplies from N&P's Trade and Business Warehouse.

A10 **Savacentre**

(a) Dealer's observation

Savacentre told us that in 1994 it had been impossible to obtain supplies of JVC televisions. It had held discussions with JVC in April of that year, but no reasons had been given for its failure to supply.

(b) Supplier's response

JVC confirmed that it had refused to supply Savacentre at that time. JVC had taken part in preliminary discussions with Savacentre but during these discussions JVC had discovered that Savacentre did not have any after-sales service facility (whether internal to Savacentre or through a third party service agent). Instead, Savacentre had indicated that it expected to be able to return all faulty products to JVC for credit. This would have meant JVC incurring significant costs with the result that the account would not have been cost-effective to maintain. Savacentre was appointed as an authorized JVC dealer in May 1996.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from JVC to substantiate these views.

Savacentre said that it had since entered into a Dealership Agreement with JVC.

LG

A11 **Pact International Limited (wholesalers)***

(a) Dealer's observation

Pact, of Peterborough, told us that the agreement it had with LG excluded Pact's right to distribute televisions to dealers in Northern Ireland.

(b) Supplier's response

LG told us that, prior to its appointment of Pact as an authorized wholesaler of Goldstar products, LG had already appointed wholesalers in Northern Ireland to satisfy the Northern Ireland market.

Mitsubishi

A12 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that in 1993, and again in February 1995, Mitsubishi had refused to supply PriceCostco with televisions.

(b) Supplier's response

Mitsubishi confirmed that it had refused to supply PriceCostco. PriceCostco had requested supply of televisions on 23 July 1993. Mitsubishi had written to PriceCostco refusing supply at that point in time but had suggested that 'we review the situation in 12 months time'. PriceCostco had failed to make that further contact for such a review.

Mitsubishi had received no further contact from PriceCostco directly until about January 1995 although it had been asked by the OFT to provide an explanation of its decision in August 1994 (following a complaint made to the OFT by PriceCostco). Mitsubishi said that it had written to the OFT on 2 September 1994 stating that PriceCostco did not suit the dealer profile Mitsubishi had established under its open distribution system.

At a meeting with PriceCostco on 2 February 1995 Mitsubishi had confirmed that its position had not changed from that set out in its July 1993 letter to PriceCostco. On 19 June 1995 PriceCostco had written to Mitsubishi again requesting that an account should be opened; PriceCostco believed it then met Mitsubishi's requirements. Mitsubishi had responded on 15 August 1995 stating that its open distribution system operated entirely at its discretion. It had a broad range of dealers in its dealer profile, and its open distribution system was not conditional in any way upon dealers meeting criteria such as presentation, point-of-sale staff or after-sales service (as had been suggested by PriceCostco).

A13 ***Broadbent Television****

(a) Dealer's observation

Mr Halstead of Broadbent Television, Huddersfield, told us that he had placed an order for Mitsubishi televisions through CIH in April 1993 but Mitsubishi had refused to supply him because he was not a Mitsubishi account holder. Mr Halstead had met with Mitsubishi in September 1993 in an attempt to obtain direct supply. However, Mitsubishi had refused to open an account with Broadbent Television. Mitsubishi had given no reasons for the refusal to supply but Mr Halstead had attributed it to pressure exerted by a local competitor.

(b) Supplier's response

Mitsubishi said that Mr Halstead had 'demanded' supply of Mitsubishi reference goods on 7 April 1993 on the inaccurate premise that Mitsubishi operated a selective distribution system; Broadbent Television had claimed to meet all Mitsubishi's distribution criteria. Mitsubishi had responded on 29 April 1993 explaining its open distribution system, and stating that it did not wish to trade with Broadbent Television. Mr Halstead had written again requesting supplies on 4 May 1993. Mitsubishi had responded on 2 June 1993 confirming its system of open distribution and explaining its trading position with CIH members.

Around September 1993, at a CIH trade show Mr Halstead had confronted Mitsubishi at its stand. He had made no request to open an account with Mitsubishi at that trade show but had used the occasion to give vent to his complaints about Mitsubishi's response to his earlier request for supply. As far as Mitsubishi was aware it had entered into no further correspondence with Broadbent Television after 2 June 1993.

Following a complaint to the OFT by Broadbent Television in December 1993 Mitsubishi had furnished an explanation to the OFT of its decision not to supply Broadbent Television.

Mitsubishi rejected Mr Halstead's claim that it had given no reasons for its refusal to supply Broadbent Television, saying that it had stated its position in its letter to Broadbent Television of 29 April 1993. Mr Halstead had attributed Mitsubishi's refusal to supply to pressure allegedly exerted by a local (named) competitor. Mitsubishi had no records indicating that the retailer concerned had made any representations to it about Broadbent Television. In any event, Mitsubishi had made its own decision not to supply Broadbent Television. Mitsubishi's dealer profile in the geographic areas concerned had been satisfactory. The appointment of Broadbent Television as a Mitsubishi authorized dealer would not have led to any improvement in the ultimate benefit for Mitsubishi and could have resulted in a dilutive effect on its sales.

(c) Dealer's response

Mr Halstead said that in May 1993 he had asked Mitsubishi for clarification of its open distribution system and its relevance to CIH members. In its reply, Mitsubishi had effectively closed the door on requests for information about its distribution system and had offered to talk only to Broadbent Television's legal representative. Mr Halstead agreed that he had confronted Mitsubishi at its stand at the CIH trade show in September 1993. He said that a Mitsubishi representative had then agreed to call on him to discuss his account application. Mr Halstead agreed that, in stating that no written reasons had been given by Mitsubishi for

refusing to supply Broadbent Television, he should have stated that 'no substantive reason had been given'. In its letter of 29 April 1993 Mitsubishi had stated that it was not obliged to trade with Broadbent Television and regretted that it did not wish to do so at that time. Mr Halstead said that Mitsubishi had told him that its open distribution system was subject to some basic competition law restrictions. Mr Halstead was unaware of what these restrictions were, where they were recorded, or whether they were visible to anyone outside Mitsubishi.

(d) Supplier's further response

Mitsubishi stated that there was no evidence from Broadbent Television of any illegal behaviour by Mitsubishi and that there had been no illegal behaviour. Mitsubishi had never agreed to supply Broadbent Television despite its repeated requests to be appointed as a dealer. Mitsubishi was entitled to appoint distributors at its discretion, provided it did not refuse to supply for an illegal reason.

Mitsubishi stated that it had not agreed to call on Broadbent Television to discuss opening an account following the September 1993 trade show meeting. The meeting had concluded without indication of any further meeting or discussion on Mitsubishi's part. Mitsubishi had not supplied Broadbent Television because it already had sufficient outlets of Broadbent Television's type in the relevant geographic areas. When considering applications from potential dealers Mitsubishi considered the overall impact the new accounts would have taking account of the location of existing outlets. Mitsubishi reiterated that the reason it had refused to supply Broadbent Television had *not* been because of pressure from the competitor named by Mr Halstead. The retailer concerned had commented to Mitsubishi that he had seen Mitsubishi stock displayed at one of Broadbent Television's shops. However, this had not been by way of any suggestion, request or representation to withhold supplies and the retailer had never made any threats that he would withdraw his business or otherwise act prejudicially towards Mitsubishi.

Panasonic

A14 ***Cargo Club****

(a) Dealer's observation

N&P told us that Panasonic had refused to supply its Cargo Club operation with televisions.

(b) Supplier's response

Panasonic told us that it had offered to supply Cargo Club with non-reference goods which required minimal or no investment by the retailer in pre- or post-sales service.

(c) Dealer's response

N&P said it regarded that ground of refusal as spurious since it already dealt with other suppliers of these goods and had had no complaints about the service it provided.

A15 ***PriceCostco****

(a) Dealer's observation

PriceCostco said that on 12 June 1995 it had asked Panasonic to supply televisions but it had been refused, not for the first time. Panasonic had offered only non-reference goods and had not responded to PriceCostco's request for Panasonic's premier range products.

(b) Supplier's response

Panasonic said that it supplied PriceCostco with products requiring minimal or no pre- or after-sales service.

Panasonic did not currently supply reference brown goods to PriceCostco for the following reasons:

- (i) *Pre-sales service:* PriceCostco sold a wide range of products of which reference brown goods formed only a small proportion. Consumer electronic products were becoming increasingly sophisticated and many consumers needed guidance in their selection of products. Failure to give such guidance might result in the customer buying unsuitable products which would inevitably turn into an after-sales service problem. As yet PriceCostco had not put any resources into recruiting or training suitable staff able to provide such guidance. Panasonic believed that if PriceCostco were to succeed in the brown goods business, it must in due course invest in recruiting or training suitable staff. Panasonic expected that this problem should recede with time.
- (ii) *After-sales service:* Panasonic required its dealers, of whatever size, to provide first-line after-sales service to end-users of Panasonic products. After-sales service was either the responsibility of the dealer himself or available from an approved third party service agent. Sometimes this service needed to be provided at the home of a consumer, even if it was only to allow qualified persons to collect bulky equipment so that it might be transported safely. PriceCostco currently offered a return-for-exchange type of arrangement. Panasonic was not satisfied that this was suitable in all cases, particularly for larger items which were difficult for consumers to transport. Moreover, Panasonic had serious concerns about the subsequent disposal of products returned to PriceCostco. PriceCostco had stated that it required suppliers to accept back any product returned by the customer and to provide PriceCostco with a full credit. Panasonic did not have the necessary infrastructure in place to deal with this type of arrangement and was not prepared to trade on those terms.

Panasonic's sister company in the USA, Matsushita Electric Corporation of America (MECA), did considerable business with PriceCostco's US affiliate. Panasonic understood that MECA provided direct service to consumers and accordingly PriceCostco (US)'s service arrangements were not such an issue. This was not the case in the UK where first-line service was provided by dealers.

A16 ***A One Services****

(a) Dealer's observation

Mr McDonald of A One Services, Sutton, Surrey, said that he had been refused supply of Panasonic televisions in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that at the time Mr McDonald had requested supplies of the reference goods, there had been no reasonable expectation that the volume of sales of Panasonic products in the area as a whole would be increased by appointing a further authorized dealer for brown goods. Panasonic had opened an account with A One Services for domestic appliances (white goods) but was not aware of any further request by Mr McDonald for the supply of any brown goods.

A17 ***Advance Repair Services****

(a) Dealer's observation

Mr Marley of Advance Repair Services (ARS), Whitstable, Kent, told us that he had been refused supply of Panasonic televisions in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that ARS had formerly been supplied with Panasonic microwave ovens by a distributor. When the distributor ceased supplying retailers with Panasonic domestic microwave ovens, Panasonic had opened an account with ARS for white goods. The Panasonic Area Sales Manager responsible for the area for

the past five years had never been approached by ARS requesting the supply of brown goods.

(c) Dealer's response

ARS responded by telling us that it had requested a brown goods account when Panasonic's Area Sales Manager had called on it after its account for white goods was opened. The Area Sales Manager had told ARS that brown goods were dealt with by a different department but that someone else from Panasonic would be in touch soon. ARS had not phoned Panasonic as it assumed its request was being processed. When Panasonic's white goods Area Sales Manager next visited, ARS had told him that it had not received an application form to open a brown goods account. The Area Sales Manager had replied that enquiries had been made but ARS's request had been rejected because the locality was already supplied.

A18 ***Broadbent Television****

(a) Dealer's observation

Mr Halstead of Broadbent Television, Huddersfield, told us that when Panasonic had begun to supply him with televisions in August 1994 it had asked him to carry the whole range of Panasonic products. He had agreed at first, but had later declined.

(b) Supplier's response

Panasonic told us that, during its discussions about supply with Broadbent Television, Mr Halstead had made it clear that he was not prepared to stock a representative range of Panasonic products, which was one of Panasonic's selection criteria. Panasonic had explained that it was only willing to appoint Broadbent Television as an authorized Panasonic dealer if he was willing to stock a representative range. Panasonic had explained that potential purchasers expected to see most, if not all, product categories represented in an outlet and expected to see a number of models in each product category. However, Panasonic did not require authorized dealers to stock every model currently available, or even necessarily models in every product category. Panasonic had not asked Mr Halstead to carry the whole range, but simply to indicate a willingness to stock a representative range of products. Following further discussions, in which the OFT was in part involved, the issue had been resolved to the satisfaction of Panasonic and, as far as Panasonic was aware, Broadbent Television.

(c) Dealer's response

Mr Halstead responded by telling us that he was developing a relationship with Panasonic. Consequently he preferred not to jeopardize the efforts and results that had been achieved thus far. He had written to Panasonic in June 1994 confirming that Broadbent Television would comply with any requests which amounted to standard practice (on stocking levels and range) to ensure that Broadbent Television became a Panasonic agent. Additionally he had asked for details on the current Panasonic product range. Mr Halstead said that Panasonic had not, at any time, explained the term 'representative range' to him.

A19 ***Kings & Barnham****

(a) Dealer's observation

Mr King of Kings & Barnham, Fakenham, Norfolk, told us that he had been refused supply of Panasonic televisions in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Kings & Barnham had been supplied with televisions until 1988 when Panasonic had closed the account because of the low turnover. Mr King had subsequently applied for a new account but Panasonic had decided not to accept the application since all the indications had been that Kings & Barnham would only be able to generate the same low volume of sales as in 1988. Therefore there had been no justifi-

cation for the expense of opening an account and maintaining sales and service support.

(c) Dealer's response

Mr King responded by saying that he was unable to comment on the account closed in 1988 as he had no records going back that far. The reason he had been given when he subsequently asked to open an account was that the area was already satisfactorily serviced by a nearby Panasonic dealer. Panasonic had made no mention of insufficient turnover.

A20 ***Llantwit Television****

(a) Dealer's observation

Mr Lewis of Llantwit Television, Pontypridd, said that in the Christmas 1994 season Panasonic had given preferential allocation of televisions to its solus dealer, a competitor, although Mr Lewis had been a Panasonic dealer for 20 years.

(b) Supplier's response

Panasonic told us that solus outlets were established by PanaService dealers who wished to supply only Panasonic and Technics brands. Panasonic provided additional support to solus outlets in recognition of the solus dealer's commitment to the Panasonic and Technics brands. If Panasonic experienced shortages of particular products, priority would be given to solus dealers, since they relied entirely on Panasonic for their stock.

A21 ***Selsdon Park TV & Video Centre****

(a) Dealer's observation

Mr Abbott of Selsdon Park TV and Video Centre (SPT), Surrey, told us that he had been refused supply of Panasonic televisions in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that its Area Sales Manager had never heard of SPT. Panasonic had no record of any request for supply of televisions by this retailer. If SPT was interested in opening an account, Panasonic would be happy to discuss this with the dealer.

(c) Dealer's response

Mr Abbott responded by saying that he had telephoned Panasonic in 1993 requesting a dealership. Panasonic's Area Sales Manager had visited SPT, and refused to open an account. There was, however, no written correspondence between SPT and Panasonic and Mr Abbott was, therefore, unable to substantiate what had happened.

A22 ***N&P***

(a) Dealer's observation

N&P told us that Panasonic had refused to supply it with televisions.

(b) Supplier's response

Panasonic told us it was not aware that N&P had any interest in the reference goods, other than in the context of its former business, Cargo Club.

(c) Dealer's response

N&P said that it believed Panasonic had not supplied either of its businesses with televisions because of Panasonic's stated requirement that N&P should provide an after-sales service.

A23 **Savacentre**

(a) Dealer's observation

Savacentre told us that it had been impossible to obtain supplies of Panasonic televisions. Discussions had been held between Savacentre and Panasonic in April 1994 but Panasonic had given no reasons for its failure to supply.

(b) Supplier's response

Panasonic told us that its National Accounts Manager for home appliances (white goods) recalled that Savacentre had asked him about supplies of brown goods, but he had explained that he was not responsible for those products and that Savacentre would need to speak to the relevant people at Panasonic. Nobody at Panasonic could recollect being requested for supplies of brown goods orally by Savacentre and Panasonic had no record of any written request by Savacentre.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from Panasonic to substantiate these views.

A24 **Magnet Discount Warehouses**

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses, London N18, told us that he had been refused supply of Panasonic televisions in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Magnet Discount Warehouses had been a former customer of a distributor of Panasonic microwave ovens. When that distributor ceased supplying retailers in 1988, Panasonic had opened a trading account for white goods with Magnet Discount Warehouses. However, Magnet had subsequently closed this account. The Panasonic Area Sales Manager responsible for the area since 1993 had never been approached by Mr Pitsillides for the supply of any reference brown goods; nor did Panasonic have any record of a request for supply.

(c) Retailer's response

Mr Pitsillides responded by telling us that his attempt to open an account with Panasonic went back several years. Some four to five years ago (1991/92) he had been advised by his Panasonic microwave representative to attend a Panasonic Trade Meeting as Panasonic had been seeking to open additional dealerships for reference brown goods. The then Regional Sales Director for Panasonic, in an open heated discussion with Mr Pitsillides, had reiterated his position of 'no dealership'.

In 1993 a new Panasonic Regional Director had been appointed. On 15 September 1993 Mr Pitsillides had written to Panasonic requesting supply of televisions. He did not receive a reply to his letter, nor to numerous telephone calls made to Panasonic. However, Panasonic's microwave representative had confirmed that Mr Pitsillides' letter had been received at Panasonic but that no reply or acknowledgement would be forthcoming. A few months later, without any notification or explanation, Panasonic had closed the microwave agency. In February 1997 Mr Pitsillides told us that he had heard no more from Panasonic. As he had since obtained supplies of another leading brand he had not pursued his application for the Panasonic brands.

A25 ***Parkview Electronics Ltd***

(a) Dealer's observation

Mr Warren of Parkview Electronics Ltd, Kentish Town, London, told us that he had been refused supply of Panasonic televisions in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Parkview Electronics was supplied with Panasonic microwave ovens by a distributor. When that distributor ceased supplying retailers in 1988 Panasonic had invited Parkview Electronics to apply for a trading account. It had not completed Panasonic's application form and therefore no account had been opened. Panasonic was aware that Mr Warren had tried to order brown goods on his spares account, which could not be done. However, Panasonic had no record of Mr Warren approaching it for an account for reference brown goods.

(c) Dealer's response

Mr Warren responded by telling us that to the best of his knowledge his company had applied for a sales account with Panasonic and had attended one of its trade shows. But Parkview Electronics had never been approached or offered a sales account.

A26 ***Peter Ellis Audio***

(a) Dealer's observation

Mr Norman of Peter Ellis Audio, Newark, Notts, told us that he had been refused supply of Panasonic televisions on the grounds that the locality was already supplied. The Technics representative had been able to arrange one-off sales of Panasonic televisions on the understanding that they were not displayed in the shop.

(b) Supplier's response

Panasonic told us that Peter Ellis Audio was a hi-fi dealer holding a Technics hi-fi account. It had wanted to obtain extremely small volumes of Panasonic's visual products which had not justified the expense of opening a Panasonic account for televisions. Therefore the Technics Area Sales Manager had arranged to order televisions for Mr Norman on a one-off basis through his audio account.

A27 ***SRS 265***

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Panasonic televisions on the grounds that the locality was already supplied. He said that he wished to remain anonymous as he was currently in discussions with Panasonic regarding a possible dealership agreement.

(b) Supplier's response

Panasonic told us that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

Pioneer

A28 ***S&R Electric Ltd****

(a) Dealer's observation

Mr Duff of S&R Electric Ltd, Belfast, said that he had obtained Pioneer televisions from a local distributor, but when (following a reorganization) Pioneer ceased to supply that distributor, Pioneer had refused him direct supply of televisions on the grounds that the locality was already supplied.

(b) Supplier's response

Pioneer told us that at the time Mr Duff requested supplies, Pioneer already supplied two dealers in Belfast. Pioneer's local Area Manager had considered that to supply its goods to another retail outlet would result in geographic over-representation in an area which was already administratively difficult to supply. Pioneer had arranged to visit S&R Electric in March 1997 to reappraise the situation. Pioneer said that S&R Electric was a member of the CIH local group in Northern Ireland (which was now a Pioneer customer) so it already had the facility to obtain Pioneer's products.

A29 ***PriceCostco***

(a) Dealer's observation

PriceCostco told us that Pioneer would not supply it with televisions although in July 1995 Pioneer had expressed a willingness to commence a dialogue.

(b) Supplier's response

Pioneer said that it rejected the suggestion that it had been reluctant to supply PriceCostco. Its letter to PriceCostco of 4 July 1995 had noted that there had been only one exchange with PriceCostco over the last two or so years. Furthermore, the letter had invited PriceCostco to enter into negotiations for the supply of Pioneer goods. Pioneer had not had a response from PriceCostco.

(c) Dealer's response

PriceCostco responded by telling us that on 4 July 1995 it had tried to follow up an earlier meeting with Pioneer but without success. Its most recent contact had been on 26 June 1996 when it had left a message with Pioneer.

A30 ***Sonics Hi-Fi***

(a) Dealer's observation

Mr Sharma of Sonics Hi-Fi, Windsor, told us that over the last four years to January 1997 he had tried unsuccessfully to obtain supply of televisions from Pioneer. He had requested supplies at trade shows, by telephone and letter but Pioneer had made it clear that it did not want to enter into a dealership agreement with him. Various reasons had been given over the years, including 'the Windsor area being well covered' and 'Pioneer did not like his discounting'. In the majority of cases Pioneer had not followed up Mr Sharma's requests, that is no representative had visited the shop, and Mr Sharma had assumed that Pioneer was not

interested in him and did not want him to sell its products.

(b) Supplier's response

Pioneer told us that it had not refused supply to Sonics Hi-Fi. In 1990 Mr Sharma had telephoned Pioneer's Area Sales Manager but no firm date for an appointment had been made. As this was not followed up by either party no meeting had been arranged. Since 1990, it had been common practice for dealers attending Pioneer's trade shows to sign their names in registration books. Pioneer had checked its records and Mr Sharma's signature did not appear in any of these books. At no time during the past four years had Mr Sharma made any contact whatsoever, by telephone or in writing, whether with a view to opening a trading account or to complain that Pioneer was unwilling, or had refused, to open such an account. The call in 1990 was the last time that Pioneer's Area Sales Manager recollected any contact with Mr Sharma until the telephone call from Mr Sharma that set up the meeting in November 1996 which was subsequently filmed secretly by the BBC for its *Panorama* programme (see paragraph 10.41).

Pioneer had arranged this meeting because Mr Sharma had expressed an interest in purchasing and selling Pioneer home electronic products. In Pioneer's view, the fact that its Area Sales Manager had followed up Mr Sharma's call by visiting Sonics Hi-Fi was evidence that Pioneer had considered Mr Sharma as a prospective dealer. Pioneer said that it had written to Mr Sharma on 8 January 1997 enclosing a Customer Account Application Form and two Dealer Agreements for Mr Sharma to complete. As at 14 February 1997 Pioneer had received no acknowledgement and no completed paperwork from Mr Sharma.

(c) Dealer's response

Mr Sharma told us that he was uncertain about the dates of his conversations with Pioneer, and his attendance at trade shows. Nevertheless he had first tried to obtain supplies of Pioneer reference goods many years ago. In Mr Sharma's view, as evidenced by the interview with Pioneer's Area Sales Manager, which the BBC *Panorama* programme had filmed, Pioneer had been unwilling to supply Sonics Hi-Fi, a situation that still prevailed. Mr Sharma said that he had not completed Pioneer's dealership form because he did not believe it had been sent to him in good faith. If Pioneer had genuinely been interested in opening an account with him, its representative would have called in person to discuss what goods were involved and in what quantities- thereafter a dealership application would have been completed.

Samsung

A31 ***Alphavision****

(a) Dealer's observation

Mr J Bardsley of Alphavision, Eastbourne, told us that Samsung's refusal to supply him with televisions was common practice in the trade and might reflect pressure on suppliers from large retailers telling them not to supply smaller competitors.

(b) Supplier's response

Samsung said that Alphavision was a one-shop operation in Eastbourne in a secondary position with limited passing trade. Samsung's Area Sales Manager had not believed that Alphavision would be able to meet Samsung's turnover criteria, and therefore it was not in a position to open the account on a direct basis. However, Alphavision was able to purchase Samsung products via one of its four UK distributors. Samsung said that if Alphavision was in a position to place a sizeable order, Samsung would be happy to supply it.

(c) Dealer's response

Mr Bardsley responded by telling us that he would have been prepared to accept Samsung's explanation if he had known exactly what turnover criteria Samsung had expected; Alphavision was supplied by other leading suppliers but Samsung had not told it what level of expected turnover it required. Since he had written to Samsung in December 1995 the only communication Mr Bardsley had received had been a phone call from Samsung's Area Sales Manager (which Mr Bardsley thought was in March 1996). During this call the Area

Sales Manager had made an appointment for that day which he did not keep. Mr Bardsley had never met a representative from Samsung on his premises.

Sanyo

A32 **Makro***

(a) Dealer's observation

Makro told us that Sanyo had withdrawn supply of televisions with effect from 1995.

(b) Supplier's response

Sanyo told us that its decision not to supply Makro from 1995 was in accordance with its policy of not supplying wholesalers, which it adopted in 1994.

A33 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that Sanyo would not supply it with televisions.

(b) Supplier's response

Sanyo told us that its principal concerns in deciding not to supply PriceCostco had been:

- (i) that Sanyo considered PriceCostco to be a wholesaler and as such would not supply it; and
- (ii) that PriceCostco did not meet the criteria required for being a Sanyo dealer.

Nevertheless, despite a letter from the OFT to PriceCostco on or about 6 September 1994, PriceCostco had not contacted Sanyo again until May 1995 shortly after the reference to the MMC was made.

PriceCostco had last contacted Sanyo on 20 July 1995 by telephone to have discussions on a possible Sanyo Dealership Agreement. The importance that Sanyo attached to merchandizing, display and training had been emphasized. A copy of Sanyo's approval criteria and the approved dealership agreement had been handed to PriceCostco for its consideration. Sanyo had said that it would consider PriceCostco's comments on Sanyo's approved dealership agreement and provide a response to PriceCostco in early September. On 5 September 1995 Sanyo had written to PriceCostco indicating its concerns and adding that Sanyo would welcome hearing from PriceCostco whether it envisaged being able to meet Sanyo's approval conditions. Since that date, PriceCostco had not responded and therefore Sanyo had not pursued the matter further.

Sanyo also said that at the meeting on 18 May PriceCostco had mentioned that the majority of its customers were buying in bulk for resale, with little self-purchasing. Sanyo said that this clearly demonstrated that PriceCostco's main activity was wholesaling.

Sony

A34 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that on 21 July 1995 Sony had refused to supply it with televisions because it did not meet Sony's requirements of an authorized dealer.

(b) Supplier's response

Sony told us that PriceCostco's account was correct. Following site visits Sony had made to PriceCostco, it had written to PriceCostco explaining where it needed to upgrade its standards before Sony could supply reference goods. PriceCostco had not replied.

A35 ***Broadbent Television****

(a) Dealer's observation

Mr J Halstead of Broadbent Television, Huddersfield, told us that he had attempted unsuccessfully to obtain supplies of Sony televisions in 1993 and 1994. Sony's initial refusal to supply had been on the grounds that it did not need further Sony dealers in the locality, and later, after Sony had introduced its PEDAs, because Broadbent Television did not fulfil the PEDA requirements including: interior decoration; merchandising; display; demonstration and storage facilities; product range; and because the premises gave the 'impression of being rental and re-rental business, and not high-quality specialist consumer electronics retail business'. Following several unsuccessful attempts by Broadbent Television to persuade Sony to change its decision (through meetings and correspondence), Sony had offered Broadbent Television a Sony dealership in April 1995 (which Broadbent Television had accepted). At that time Sony had stated that the reason for reversing its previous decision was 'improvements to the fit out and display facilities ... made since Sony's last visit to Broadbent Television'. Mr Halstead told us that he had made no 'fundamental' improvements to his premises, other than repainting a wall and removing a partition wall to increase the size of the showroom.

(b) Supplier's response

Sony said that the premises of Broadbent Television had failed to meet the requirements of its PEDA until 1995. Sony did not accept that there had been no improvements in the premises, as had been confirmed in a letter to Sony from Broadbent Television of 14 November 1994 in which Broadbent Television had stated that 'since your last recorded visit, we have once again improved our display'.

A36 ***Colins (Electrical Warehouse) Ltd****

(a) Dealer's observation

Mr R C Hemmingsley of Colins Electrical (Colins), Kingstanding, Birmingham, told us that he was a member of CIH, which hitherto Sony had been reluctant to supply as a wholesaler. However, in 1996 Sony had offered to supply CIH on the condition that reference goods supplied for distribution through CIH's warehouse were to be restricted only to CIH members who were existing Sony account holders. Mr Hemmingsley believed that this restriction was contrary to fair competition.

(b) CIH's response

CIH told us that Sony supplied a considerable number of CIH members through CIH's group buying arrangements. CIH had held discussions with Sony with a view to purchasing reference goods for CIH's central stock. But the discussions had not been fruitful because Sony had been unable to meet the terms required by CIH.

(c) Supplier's response

Sony told us that it supplied a complete range of models of reference brown goods to members of CIH who were authorized under the terms of its selective distribution system. Sony was prevented under the terms of its PEDA from supplying reference brown goods, either directly or indirectly, through distributors such as CIH to any dealer who did not meet these criteria. Sony was currently negotiating with CIH with a view to agreeing the commercial terms under which Sony would supply CIH with reference brown goods for its central stock, ie for resale to its members.

In March 1995 CIH had given Sony the names of 85 CIH members said to be interested in stocking Sony's products. Colins was one of those named. In May 1995 Sony had reviewed Colins' premises and found that it was primarily a white goods business whose premises did not meet the criteria of the PEDAs in some important respects.

As Mr Hemmingsley had not contacted Sony direct he had not been informed that his premises had been reviewed or of the results of that review. Since receiving this observation Sony had contacted Mr Hemmingsley to inform him of the unsuccessful review carried out in May 1995, and to notify him of Sony's Arbitration Policy. In view of the amount of time which had passed, it had also offered to carry out another review of Colins' premises. Mr Hemmingsley had not replied.

A37 ***Lisnasure Interiors****

(a) Dealer's observation

Mr Little of Lisnasure Interiors, Dromore, Co Down, said that he had been refused supply of Sony televisions in 1993/94 because the locality was already supplied.

(b) Supplier's response

Sony told us that prior to the introduction of its PEDAs in April 1993, the selective distribution criteria Sony used had allowed it to reject applicants on geographic grounds. 'Adequate dealer coverage' in the applicant's area had been the standard reason for an initial refusal to supply, even where other grounds for rejection existed. Since it had received Mr Little's observation, Sony had carried out a review of his premises and could confirm that they did meet the criteria of the PEDAs. Accordingly Sony had written to Lisnasure Interiors asking if it would like to progress towards opening an account.

A38 ***Magnet Discount Warehouses****

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses told us that he had been refused supply of Sony televisions in 1994/95 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that Magnet Discount Warehouses had applied for the supply of televisions on 19 October 1993. Sony was not aware of any other application since then. Magnet Discount Warehouses had held a service and spares account with Sony for some considerable time although it did not appear to have purchased any goods since 1993.

Since receiving this observation Sony had carried out a review of the dealer's premises and could confirm that they had met the criteria of the Sony PEDAs. Accordingly Sony had written to Mr Pitsillides asking him if he would like to progress towards opening an account for the reference brown goods.

(c) Dealer's response

Mr Pitsillides responded by telling us that Sony had opened an account with him in October 1996.

A39 ***Shadoos****

(a) Dealer's observation

Mr Haq of Shadoos, Wilmslow Road, Rusholme, Manchester, said that Sony had refused to supply him with televisions in earlier years, but that (following his representations to the Area Manager) he had signed an agreement with Sony in April 1995. Shortly afterwards the Area Manager had changed, and his successor had

halted the opening of the account, questioning whether the retailer met Sony's criteria. As at 16 December 1995 he had still been given no reason why his account had not been opened, nor had anyone from Sony visited his premises to see if they met Sony's criteria.

(b) Supplier's response

Sony told us that, contrary to company policy, its former local Area Manager had agreed to appoint Shadoos without having first carried out a proper review of the premises to ensure that they complied with Sony's PEDAs.

In October 1995 a review of Shadoos' premises had indicated that they fell below the relevant standards of the PEDAs. Sony had explained this to Mr Haq and written to him on 1 December 1995 confirming its position. Following receipt of Mr Haq's observation to the MMC, Sony had sent a further letter to Mr Haq clarifying Sony's position. Mr Haq had not replied.

A40 **Mr Whistance***

(a) Dealer's observation

Mr B Whistance of Hereford told us that he had been refused supply of Sony televisions in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that its local area representative covering Hereford had done so for around ten years and could not recall ever having had any contact with this dealer. Sony had no record, either formal or informal, of ever having received any request from this dealer for supplies of televisions. Since receiving Mr Whistance's observation Sony had carried out a review of the dealer's premises and could confirm that they did not meet the criteria of the PEDAs in some important respects. Sony had informed the dealer of its precise reasons in writing, suggested areas of improvement, and advised him of the terms of its Arbitration Policy. Mr Whistance had not replied.

(c) Dealer's response

Mr Whistance responded by telling us that he stood by his original statements that Sony had refused to supply him because it claimed the locality was already supplied.

A41 **SRS 110***

(a) Dealer's observation

This retailer (SRS 110) told us that Sony had refused to open an account with him for televisions in 1993 on the grounds that the locality was already supplied. Sony had since approached him, in the summer of 1995, to ask if he would like to open an account because a nearby Sony Centre had closed. The retailer said that he wished to remain anonymous because he had just started an account with Sony and 'did not wish to sour a recently established relationship'.

(b) Supplier's response

Sony told us that the selective distribution criteria it previously used had allowed it to reject applicants on geographic grounds. During 1993 several applicants had been rejected on the basis of 'adequate dealer coverage' in the applicant's area. Sony often approached other local retailers with which Sony did not have an account when one of its dealers ceased trading. Sony believed this action was entirely proper. Sony said that it could not comment further on this observation without knowing the identity of the retailer.

A42 **Makro**

(a) Dealer's observation

Makro told us that it had been unable to obtain supply of Sony reference goods on a regular direct basis prior to 1994 when Makro International had agreed with Sony Europe that all Makro business divisions trading in Europe could sign Sony's PEDAs.

(b) Supplier's response

Sony told us that it had sold a wide range of reference goods to Makro since 1986. In 1992 it had supplied televisions to Makro to the value of £70,000; in 1993, £212,000; and in 1994, £406,000.

A43 **SRS 265**

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Sony televisions on the grounds that the locality was already supplied. The retailer said that he wished to remain anonymous as he was currently in discussions with Sony regarding a possible dealership agreement.

(b) Supplier's response

Sony said that the dealer's observation did not indicate the date on which the refusal was made. If it had been prior to the introduction of its PEDAs, the retailer's explanation could have been true. Otherwise, Sony could not comment without further information.

Toshiba

A44 **Cargo Club***

(a) Dealer's observation

N&P told us that Toshiba had refused to supply its Cargo Club operation with televisions.

(b) Supplier's response

Toshiba told us that it had attended a meeting with Cargo Club on Monday 6 December 1993 (arranged at Cargo Club's request) at which Cargo Club had outlined its strategy. It had informed Toshiba that its first store was due to open in February 1994 and that it would like to offer the Toshiba range of televisions with a particular interest in large-screen models. Toshiba had told Cargo Club that it did not consider that Toshiba would gain any incremental business if it were to supply Cargo Club, and that Toshiba was experiencing difficulties in satisfying current demand for those products. However, Toshiba had asked Cargo Club to send it any further information. From that date there had been no further communication between Toshiba and Cargo Club.

A45 **PriceCostco***

(a) Dealer's observations

PriceCostco said that at a meeting on 4 May 1993, Toshiba's Sales Director had told it that Toshiba would not supply PriceCostco with televisions. This decision was later reversed. PriceCostco began receiving direct supply of televisions from Toshiba in September 1996.

(b) Supplier's response

Toshiba told us that, on 28 April 1993, at PriceCostco's request, Toshiba and PriceCostco had held an exploratory meeting. PriceCostco had outlined its plans for the UK within the next few years but had been unable to confirm the likely location of its stores. At a further meeting on 21 July 1993 PriceCostco had explained its philosophy although the location of the first PriceCostco warehouse club had still to be announced. PriceCostco had expressed an interest in selling certain Toshiba televisions (primarily large screens) and VCRs. Toshiba had indicated that it doubted whether there would be any incremental business for Toshiba were it to supply PriceCostco. Further, it had indicated that Toshiba was then experiencing some difficulty in meeting demand for certain of its products.

In April 1994, at a trade show, arrangements were made for Toshiba to visit PriceCostco's warehouse club at Thurrock. (PriceCostco had informed Toshiba that it was already stocking Toshiba large-screen televisions obtained from indirect sources.) During the subsequent meeting PriceCostco had been asked to give an indication of the level of sales it was achieving on these Toshiba televisions but it had been unable to provide this information. Toshiba, therefore, had little means of gauging the level of business that might be achieved. Toshiba had told PriceCostco at that time that the position on supply had not changed from that set out during the July 1993 meeting. In 1996 Toshiba had begun supplying PriceCostco with televisions.

A46 ***Kempsons****

(a) Dealer's observation

Mrs E Kempson of Kempsons, Hereford, told us that she had been refused supply of Toshiba televisions in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Toshiba told us that the comment by Kempsons would seem to be consistent with Toshiba's practice of seeking new retailers where incremental business could be achieved.

(c) Dealer's response

Mrs Kempson said that her business stood by its original statement. Toshiba had refused supply of televisions in 1994. The reason it had given was that the locality was already supplied and it was concerned that Kempsons would not be able to attain the necessary turnover for Toshiba.

VCRs

Aiwa

B1 ***Pact International Limited (wholesaler)****

(a) Dealer's observation

Pact of Peterborough told us that Aiwa had requested it to refrain from canvassing business from dealers in Northern Ireland and Scotland.

(b) Supplier's response

Aiwa told us that Excel was Aiwa's sole distributor to retailers in Scotland; Intek in Northern Ireland; and Pact was an Aiwa distributor in England and Wales, supplying small retailers.

Aiwa had given sole distribution rights in Scotland and Northern Ireland to Excel and Intek to maximize the cost-effectiveness of distributing Aiwa products. In later appointing Pact as a distributor in England, Aiwa had not forbidden Pact to supply retailers in Scotland and Northern Ireland. But Aiwa did not want Pact to canvass actively in either locality because of the sole distribution rights Aiwa had awarded to Excel and Intek respectively.

By granting sole rights Aiwa placed significant responsibility on the wholesalers concerned. In Aiwa's view, it was appropriate that their investment and commitment should be rewarded. Exclusivity was common throughout commercial life and accorded with EC and UK RTP legislation. However, Pact was a well-known wholesaler and there was nothing to prevent Aiwa's Scottish or Irish dealers seeking supply from Pact if they were unhappy with Excel or Intek; to Aiwa's knowledge some did so.

B2 ***Brighton Audio and TV****

(a) Dealer's observation

Mr Goble of Brighton Audio and TV (BAT), Brighton, Sussex, told us that he had been refused supply of Aiwa VCRs during 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Aiwa told us that it had no record of any formal application for supply from BAT. However, it was a small outlet and the volume of the account would have been worth well below the threshold for direct supply. BAT was able to purchase Aiwa's reference goods from one of its wholesalers appointed to sell to retailers with a purchase requirement below £70,000 a year.

(c) Dealer's response

Mr Goble responded by telling us that in the 1993/94 financial year BAT had a turnover of over £1 million and several suppliers' accounts had exceeded £50,000.

B&O

B3 ***JLP****

(a) Dealer's observation

JLP told us that it had wished to sell some models of B&O's VCRs in a few branches. But it was unable to do so because B&O had stipulated that JLP should stock a minimum range, presented in a way that did not suit it.

(b) Supplier's response

B&O told us it considered that a minimum stocking requirement and its required presentation were essential parts of its distribution system. The former ensured that consumers were offered a choice of products whilst the latter not only reinforced the quality image of the B&O brand name but ensured that consumers received the best available pre-sale information.

B4 ***Sevenoaks Hi-Fi & Video****

(a) Dealer's observation

Sevenoaks Hi-Fi & Video (Sevenoaks Hi-Fi) told us that B&O had terminated its dealer agreement with Sevenoaks Hi-Fi's Tunbridge Wells branch when it moved 100 yards down the road to larger premises on the grounds that the agreement was specific to the original site. B&O had refused to discuss the matter and soon afterwards had appointed a new solus B&O dealership in the area.

(b) Supplier's response

B&O said that its contract with Sevenoaks Hi-Fi in respect of its Tunbridge Wells branch was premises-specific; B&O was entitled to terminate the dealership if Sevenoaks Hi-Fi moved to alternative premises without first obtaining the prior written consent of B&O. Sevenoaks Hi-Fi had failed to inform B&O or discuss its plans to move to the new premises. In particular, there had been no discussion about dedicated sales staff, staff training or fixture and fittings.

(c) Dealer's response

Sevenoaks Hi-Fi responded by telling us that it contested B&O's contention that it had failed to inform B&O or discuss its plans to move to the new premises. The plans had been discussed at meetings between the Managing Director of Sevenoaks Hi-Fi and the local B&O representative. It was not normal for notice in writing to be insisted upon when there was an active dealer/supplier relationship. B&O had made no comment, written or otherwise, that Sevenoaks Hi-Fi would need to obtain specific written permission to move the B&O account 100 yards down the road. There had been discussion between Sevenoaks Hi-Fi and B&O concerning fixtures and fittings at the new store as Sevenoaks Hi-Fi was making specific space available for B&O products. There had been no need for specific discussion about staff and training as the staff had not changed.

Hitachi

B5 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that, as at 21 July 1995, Hitachi would not discuss supply of VCRs with it.

(b) Supplier's response

Hitachi said that it was not aware of refusing to discuss supply with PriceCostco on 21 July 1995. PriceCostco had an established channel of communication with Hitachi's Director of Sales and Marketing and he was not aware of there being any approach then.

(c) Dealer's response

PriceCostco responded by telling us that its buyer had left at least six messages for Hitachi's Director of Sales and Marketing during the autumn and winter of 1995. There had been no response and PriceCostco's buyer had finally given up.

JVC

B6 *Cargo Club**

(a) Dealer's observation

N&P told us that JVC had refused to supply its Cargo Club operation with VCRs.

(b) Supplier's response

JVC told us that, at N&P's request, a meeting had taken place between JVC and N&P on 18 August 1993 at which N&P had explained its then proposed Cargo Club venture. At that time there had been no Cargo Club premises anywhere in the UK so it had been impossible for JVC to carry out its usual inspection of trading premises to ascertain whether Cargo Club would have satisfied JVC's dealership criteria. In addition, N&P had not been able to produce the financial information about Cargo Club which JVC would have needed to open an account. JVC had suggested that N&P should approach it again when Cargo Club was ready to begin trading.

On 11 November 1993 N&P had told JVC that it was still interested in Cargo Club becoming a JVC authorized dealer. However, as the trading premises of Cargo Club could still not be inspected, and no further information about its financial position was available, JVC had written to N&P on 3 December 1993, stating that JVC was not in a position to provide N&P with an account.

JVC had attended the opening ceremony of the first Cargo Club outlet which opened in the UK in March 1994. No discussions had taken place at that event about Cargo Club opening an account with JVC. An article in *ERT* in August 1994, in which JVC had said that Cargo Club had been unable to meet its requirements for supply, had prompted Cargo Club to contact JVC again. JVC had then suggested that Cargo Club should renew its application for an account, but it did not do so. JVC believed that the fact that Cargo Club had gone out of business about a year after commencing trading underlined the correctness of JVC's policy of going through the proper procedures when opening an account.

(c) Dealer's response

N&P responded by telling us that Cargo Club had been a direct subsidiary of N&P and would have had the backing and guarantees of its parent. N&P believed JVC was simply stalling and using the financial criteria as an excuse. Cargo Club had ceased trading but it had not gone out of business (in the sense that all its creditors were paid in full).

B7 *PriceCostco**

(a) Dealer's observation

PriceCostco told us that in a letter of 1 November 1994 JVC stated, not for the first time, that it would not supply PriceCostco with VCRs.

(b) Supplier's response

JVC told us that, in April 1993, PriceCostco had attended the JVC Trade Show where it had discussed with JVC the possibility of PriceCostco becoming an authorized JVC dealer. A meeting between JVC and PriceCostco had followed on 13 May 1993. At this meeting, PriceCostco had explained its operations in the USA and its intentions in relation to the UK. At that time, PriceCostco had not begun to trade in the UK so JVC had been unable to carry out its usual inspection of trading premises. As a result, JVC had written to PriceCostco on 24 May 1993 advising it to contact JVC again when ready to open for business.

When PriceCostco opened warehouse clubs in Thurrock and Watford in November 1993 and June 1994 respectively, JVC had not been asked to supply those outlets. However, JVC heard that PriceCostco in

Watford was stocking JVC products; JVC had therefore visited PriceCostco on 18 August 1994 to see what stock was being held and to ascertain if PriceCostco was able to comply with JVC's Dealership Agreement.

On 6 October 1994, at PriceCostco's invitation, JVC had attended a meeting at PriceCostco in Watford at which JVC had advised PriceCostco of JVC's account criteria and the terms of its Dealership Agreement. JVC said that it and PriceCostco had agreed that the only provision with which PriceCostco could comply was the clause which required that the dealer should maintain an adequate supply and stock of free leaflets and brochures on JVC's products. In particular, PriceCostco had stated that the reason it could not comply with JVC's other requirements was that PriceCostco was not actually a retailer but rather like a social club selling products to members.

PriceCostco had asked JVC if it could prepare a contract specially tailored to meet PriceCostco's method of trading. JVC had refused to do so. It had explained that all JVC products were sold subject to its Dealership Agreement which could not be varied between dealers. JVC had advised PriceCostco that it would reconsider PriceCostco's application for an account if it could meet the criteria of JVC's Dealership Agreement, and present a business plan to enable JVC to satisfy itself about PriceCostco's creditworthiness. PriceCostco had replied that it was not its policy to supply such financial and business information to a supplier. On 24 October 1994 JVC had written to PriceCostco confirming the reasons why it could not open an account at that time. PriceCostco had replied on 27 October 1994 but nothing in its letter had led JVC to change its view that PriceCostco could not comply with its Dealership Agreement. JVC had written to PriceCostco on 1 November 1994 confirming the position; and indicating that it was ready to reconsider the application if PriceCostco were able to comply with its Dealership Agreement terms. JVC had not received any further formal requests from PriceCostco to reconsider its application for an account.

B8 *Brighton Audio and TV**

(a) Dealer's observation

Mr Goble of Brighton Audio and TV (BAT), Brighton, Sussex, told us that he had been refused supply of JVC VCRs during 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

JVC told us that, after preliminary discussions with BAT, it had refused to appoint BAT as an authorized dealer in 1993.

B9 *N&P*

(a) Dealer's observation

N&P told us that it had been refused supply of VCRs by JVC.

(b) Supplier's response

JVC told us that it had never received a request for supplies from N&P's Trade and Business Warehouse.

B10 *Savacentre*

(a) Dealer's observation

Savacentre told us that in 1994 it had been impossible to obtain supplies of JVC VCRs. It had held discussions with JVC in April of that year, but no reasons had been given for its failure to supply.

JVC confirmed that it had refused to supply Savacentre at that time. JVC had taken part in preliminary discussions with Savacentre but during these discussions JVC had discovered that Savacentre did not have any

after-sales service facility (whether internal to Savacentre or through a third party service agent). Instead, Savacentre had indicated that it expected to be able to return all faulty products to JVC for credit. This would have meant JVC incurring significant costs with the result that the account would not have been cost-effective to maintain. Savacentre was appointed as an authorized JVC dealer in May 1996.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from JVC to substantiate these views.

Savacentre said that it had since entered into a Dealership Agreement with JVC.

LG

B11 ***Pact International Limited (wholesaler)****

(a) Dealer's observation

Pact, of Peterborough, told us that the agreement it had with LG excluded its right to distribute VCRs to dealers in Northern Ireland.

(b) Supplier's response

LG told us that, prior to its appointment of Pact as an authorized wholesaler of Goldstar products, LG had already appointed wholesalers in Northern Ireland to satisfy the Northern Ireland market.

Mitsubishi

B12 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that in 1993, and again in February 1995, Mitsubishi had refused to supply PriceCostco with VCRs.

(b) Supplier's response

Mitsubishi confirmed that it had refused to supply PriceCostco. PriceCostco had requested supply of Mitsubishi VCRs on 23 July 1993. Mitsubishi had written to PriceCostco refusing supply at that point in time but had suggested that 'we review the situation in 12 months time'. PriceCostco had failed to make that further contact for such a review.

Mitsubishi had received no further contact from PriceCostco directly until about January 1995 although it had been asked by the OFT to provide an explanation of its decision in August 1994 (following a complaint made to the OFT by PriceCostco). Mitsubishi said that it had written to the OFT on 2 September 1994 stating that PriceCostco did not suit the dealer profile Mitsubishi had established under its open distribution system.

At a meeting with PriceCostco on 2 February 1995 Mitsubishi had confirmed that its position had not changed from that set out in its 23 July 1993 letter to PriceCostco. On 19 June 1995 PriceCostco had written to Mitsubishi again requesting that an account should be opened; PriceCostco believed it then met Mitsubishi's requirements. Mitsubishi had responded on 15 August 1995 stating that its open distribution system operated entirely at its discretion. It had a broad range of dealers in its dealer profile and its open distribution system was not conditional in any way upon dealers meeting criteria such as presentation, point-of-sale staff or after-sales service (as had been suggested by PriceCostco).

(a) Dealer's observation

Mr Halstead of Broadbent Television, Huddersfield, told us that he had placed an order for Mitsubishi VCRs through CIH in April 1993 but Mitsubishi had refused to supply him because he was not a Mitsubishi account holder. Mr Halstead had met with Mitsubishi in September 1993 in an attempt to obtain direct supply. However, Mitsubishi had refused to open an account with Broadbent Television. Mitsubishi had given no reasons for the refusal to supply but Mr Halstead had attributed it to pressure exerted by a local competitor.

(b) Supplier's response

Mitsubishi said Mr Halstead had 'demanded' supply of Mitsubishi reference goods on 7 April 1993 on the inaccurate premise that Mitsubishi operated a selective distribution system; Broadbent Television had claimed to meet all Mitsubishi's distribution criteria. Mitsubishi had responded on 29 April 1993 explaining its open distribution system, and stating that it did not wish to trade with Broadbent Television. Mr Halstead had written again requesting supplies on 4 May 1993. Mitsubishi had responded on 2 June 1993 confirming its system of open distribution and explaining its trading position with CIH members.

Around September 1993 at a CIH trade show Mr Halstead had confronted Mitsubishi at its stand. He had made no request to open an account with Mitsubishi at that trade show but had used the occasion to give vent to his complaints about Mitsubishi's response to his earlier request for supply. As far as Mitsubishi was aware it had entered into no further correspondence with Broadbent Television after 2 June 1993.

Following a complaint to the OFT by Broadbent Television in December 1993 Mitsubishi had furnished an explanation to the OFT of its decision not to supply Broadbent Television.

Mitsubishi rejected Mr Halstead's claim that it had given no reasons for its refusal to supply Broadbent Television, saying that it had stated its position in its letter to Broadbent Television of 29 April 1993. Mr Halstead had attributed Mitsubishi's refusal to supply to pressure allegedly exerted by a local (named) competitor. Mitsubishi had no records indicating that the retailer concerned had made any representations to it about Broadbent Television. In any event, Mitsubishi had made its own decision not to supply Broadbent Television. Mitsubishi's dealer profile in the geographic areas concerned had been satisfactory. The appointment of Broadbent Television as a Mitsubishi authorized dealer would not have led to any improvement in the ultimate benefit for Mitsubishi and could have resulted in a dilutive effect on its sales.

(c) Dealer's response

Mr Halstead said that in May 1993 he had asked Mitsubishi for clarification of its open distribution system and its relevance to CIH members. In its reply, Mitsubishi had effectively closed the door on requests for information about its distribution system and had offered to talk only to Broadbent Television's legal representative. Mr Halstead agreed that he had confronted Mitsubishi at its stand at the CIH trade show in September 1993. He said that a Mitsubishi representative had then agreed to call on him to discuss his account application. Mr Halstead agreed that, in stating that no written reasons had been given by Mitsubishi for refusing to supply Broadbent Television, he should have stated that 'no substantive reason had been given'. In its letter of 29 April 1993 Mitsubishi had stated that it was not obliged to trade with Broadbent Television and regretted that it did not wish to do so at that time. Mr Halstead said that Mitsubishi had told him that its open distribution system was subject to some basic competition law restrictions. Mr Halstead was unaware of what these restrictions were, where they were recorded, or whether they were visible to anyone outside Mitsubishi.

(d) Supplier's further response

Mitsubishi stated that there was no evidence from Broadbent Television of any illegal behaviour by Mitsubishi and that there had been no illegal behaviour. Mitsubishi had never agreed to supply Broadbent Television despite its repeated requests to be appointed as a dealer. Mitsubishi was entitled to appoint distributors at its discretion, provided it did not refuse to supply for an illegal reason.

Mitsubishi stated that it had not agreed to call on Broadbent Television to discuss opening an account

following the September 1993 trade show meeting. The meeting had concluded without indication of any further meeting or discussion on Mitsubishi's part. Mitsubishi had not supplied Broadbent Television because it already had sufficient outlets of Broadbent Television's type in the relevant geographic areas. When considering applications from potential dealers Mitsubishi considered the overall impact the new accounts would have taking account of the location of existing outlets. Mitsubishi reiterated that the reason it had refused to supply Broadbent Television had *not* been because of pressure from the competitor named by Mr Halstead. The retailer concerned had commented to Mitsubishi that he had seen Mitsubishi stock displayed at one of Broadbent Television's shops. However, this had not been by way of any suggestion, request or representation to withhold supplies and the retailer had never made any threats that he would withdraw his business or otherwise act prejudicially towards Mitsubishi.

Panasonic

B14 *PriceCostco**

(a) Dealer's observation

PriceCostco said that on 12 June 1995 it had asked Panasonic to supply VCRs but it had been refused, not for the first time. Panasonic had offered only non-reference goods and had not responded to PriceCostco's request for Panasonic's premier range products.

(b) Supplier's response

Panasonic said that it supplied PriceCostco with products requiring minimal or no pre- or after-sales service. Panasonic did not currently supply the reference brown goods to PriceCostco for the following reasons:

- (i) *Pre-sales service:* PriceCostco sold a wide range of products of which reference brown goods formed only a small proportion. Consumer electronic products were becoming increasingly sophisticated and many consumers needed guidance in their selection of products. Failure to give such guidance might result in the customer buying unsuitable products which would inevitably turn into an after-sales service problem. As yet PriceCostco had not put any resources into recruiting or training suitable staff able to provide such guidance. Panasonic believed that if PriceCostco were to succeed in the brown goods business, it must in due course invest in recruiting or training suitable staff. Panasonic expected that this problem should recede with time.
- (ii) *After-sales service:* Panasonic required its dealers, of whatever size, to provide first-line after-sales service to end-users of Panasonic products. After-sales service was either the responsibility of the dealer himself or available from an approved third party service agent. Sometimes this service needed to be provided at the home of a consumer, even if it was only to allow qualified persons to collect bulky equipment so that it might be transported safely. PriceCostco currently offered a return-for-exchange type of arrangement. Panasonic was not satisfied that this was suitable in all cases, particularly for larger items which were difficult for consumers to transport. Moreover, Panasonic had serious concerns about the subsequent disposal of products returned to PriceCostco. PriceCostco had stated that it required suppliers to accept back any product returned by the customer and to provide PriceCostco with a full credit. Panasonic did not have the necessary infrastructure in place to deal with this type of arrangement and was not prepared to trade on those terms.

Panasonic's sister company in the USA, Matsushita Electric Corporation of America (MECA), did considerable business with PriceCostco's US affiliate. Panasonic understood that MECA provided direct service to consumers and accordingly PriceCostco (US)'s service arrangements were not such an issue. This was not the case in the UK where first-line service was provided by dealers.

B15 *A One Services**

(a) Dealer's observation

Mr McDonald of A One Services, Sutton, Surrey, said that he had been refused supply of Panasonic VCRs in

1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that at the time Mr McDonald had requested supplies of the reference goods, there had been no reasonable expectation that the volume of sales of Panasonic products in the area as a whole would be increased by appointing a further authorized dealer for brown goods. Panasonic had opened an account with A One Services for domestic appliances (white goods) but was not aware of any further request by Mr McDonald for the supply of any brown goods.

B16 *Advance Repair Services**

(a) Dealer's observation

Mr Marley of Advance Repair Services (ARS), Whitstable, Kent, told us that he had been refused supply of Panasonic VCRs in 1993 on the grounds that the locality was already supplied.

(b) Supplier's comments

Panasonic told us that ARS had formerly been supplied with Panasonic microwave ovens by a distributor. When the distributor ceased supplying retailers with Panasonic domestic microwave ovens, Panasonic had opened an account with ARS for white goods. The Panasonic Area Sales Manager responsible for the area for the past five years had never been approached by ARS requesting the supply of brown goods.

(c) Dealer's response

ARS responded by telling us that it had requested a brown goods account when Panasonic's Area Sales Manager called on it after its account for white goods was opened. The Area Sales Manager had told ARS that brown goods were dealt with by a different department but that someone else from Panasonic would be in touch soon. ARS had not phoned Panasonic as it assumed its request was being processed. When Panasonic's white goods Area Sales Manager next visited, ARS had told him that it had not received an application form to open a brown goods account. The Area Sales Manager had replied that enquiries had been made but ARS's request had been rejected because the locality was already supplied.

B17 *Broadbent Television**

(a) Dealer's observation

Mr Halstead of Broadbent Television, Huddersfield, told us that when Panasonic had begun to supply him with VCRs in August 1994 it had asked him to carry the whole range of Panasonic products. He had agreed at first, but had later declined.

(b) Supplier's response

Panasonic told us that, during its discussions about supply with Broadbent Television, Mr Halstead had made it clear that he was not prepared to stock a representative range of Panasonic products, which was one of Panasonic's selection criteria. Panasonic had explained that it was only willing to appoint Broadbent Television as an authorized Panasonic dealer if he was willing to stock a representative range. Panasonic had explained that potential purchasers expected to see most, if not all, product categories represented in an outlet and expected to see a number of models in each product category. However, Panasonic did not require authorized dealers to stock every model currently available, or even necessarily models in every product category. Panasonic had not asked Mr Halstead to carry the whole range, but simply to indicate a willingness to stock a representative range of products. Following further discussions, in which the OFT was in part involved, the issue had been resolved to the satisfaction of Panasonic and, as far as Panasonic was aware, Broadbent Television.

(c) Dealer's response

Mr Halstead responded by telling us that he was developing a relationship with Panasonic. Consequently he preferred not to jeopardize the efforts and results that had been achieved thus far. He had written to Panasonic in June 1994 confirming that Broadbent Television would comply with any requests which amounted to standard practice (on stocking levels and range) to ensure that Broadbent Television became a Panasonic agent. Additionally he had asked for details on the current Panasonic product range. Mr Halstead said that Panasonic had not, at any time, explained the term representative range to him.

B18 ***Kings & Barnham****

(a) Dealer's observation

Mr King of Kings & Barnham, Fakenham, Norfolk, told us that he had been refused supply of Panasonic VCRs in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Kings & Barnham had been supplied with VCRs until 1988 when Panasonic had closed the account because of the low turnover. Mr King had subsequently applied for a new account but Panasonic had decided not to accept the application since all the indications had been that Kings & Barnham would only be able to generate the same low volume of sales as in 1988. Therefore there had been no justification for the expense of opening an account and maintaining sales and service support.

(c) Dealer's response

Mr King responded by saying that he was unable to comment on the account closed in 1988 as he had no records going back that far. The reason he had been given when he subsequently asked to open an account was that the area was already satisfactorily serviced by a nearby Panasonic dealer. Panasonic had made no mention of insufficient turnover.

B19 ***Selsdon Park TV & Video Centre****

(a) Dealer's observation

Mr Abbott of Selsdon Park TV and Video Centre (SPT), Surrey, told us that he had been refused supply of Panasonic VCRs in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that its Area Sales Manager had never heard of SPT. Panasonic had no record of any request for supply of VCRs by this retailer. If SPT was interested in opening an account, Panasonic would be happy to discuss this with the dealer.

(c) Dealer's response

Mr Abbott responded by saying that he had telephoned Panasonic in 1993 requesting a dealership. Panasonic's Area Sales Manager had visited SPT, and refused to open an account. There was, however, no written correspondence between SPT and Panasonic and Mr Abbott was, therefore, unable to substantiate what had happened.

B20 **Savacentre**

(a) Dealer's observation

Savacentre told us that it had been impossible to obtain supplies of Panasonic VCRs. Discussions had been held between Savacentre and Panasonic in April 1994 but Panasonic had given no reasons for its failure to supply.

(b) Supplier's response

Panasonic told us that its National Accounts Manager for home appliances (white goods) recalled that Savacentre had asked him about supplies of brown goods, but he had explained that he was not responsible for those products and that Savacentre would need to speak to the relevant people at Panasonic. Nobody at Panasonic could recollect being requested for supplies of brown goods orally by Savacentre and Panasonic had no record of any written request by Savacentre.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from Panasonic to substantiate these views.

B21 **Magnet Discount Warehouses**

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses, London N18, told us that he had been refused supply of Panasonic VCRs in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Magnet Discount Warehouses had been a former customer of a distributor of Panasonic microwave ovens. When that distributor ceased supplying retailers in 1988, Panasonic had opened a trading account for white goods with Magnet Discount Warehouses. However, Magnet subsequently closed this account. The Panasonic Area Sales Manager responsible for the area since 1993 had never been approached by Mr Pitsillides for the supply of any brown goods; nor did Panasonic have any record of a request for supply.

(c) Dealer's response

Mr Pitsillides responded by telling us that his attempt to open an account with Panasonic went back several years. Some four to five years ago (1991/92) he had been advised by his Panasonic microwave representative to attend a Panasonic Trade Meeting as Panasonic had been seeking to open additional dealerships for reference brown goods. The then Regional Sales Director for Panasonic, in an open heated discussion with Mr Pitsillides, reiterated his position of 'no dealership'.

In 1993 a new Panasonic Regional Director had been appointed. Mr Pitsillides had written again to Panasonic requesting supply of VCRs on 15 September 1993. He had not received a reply to his letter, nor to numerous telephone calls made to Panasonic. However, Panasonic's microwave representative had confirmed that Mr Pitsillides' letter had been received at Panasonic but that no reply or acknowledgement would be forthcoming. A few months later, without any notification or explanation, Panasonic had closed the microwave agency. In February 1997 Mr Pitsillides told us that he had heard no more from Panasonic. As he had since obtained supplies of another leading brand he had not pursued his application for the Panasonic brands.

B22 ***Parkview Electronics Ltd***

(a) Dealer's observation

Mr Warren of Parkview Electronics Ltd, Kentish Town, London, told us that he had been refused supply of Panasonic VCRs in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Parkview Electronics was supplied with Panasonic microwave ovens by a distributor. When that distributor ceased supplying retailers in 1988 Panasonic had invited Parkview Electronics to apply for a trading account. It had not completed Panasonic's application form and therefore no account had been opened. Panasonic was aware that Mr Warren had tried to order brown goods on his spares account, which could not be done. However, Panasonic had no record of Mr Warren approaching it for an account for reference brown goods.

(c) Dealer's response

Mr Warren responded by telling us that to the best of his knowledge his company had applied for a sales account with Panasonic and had attended one of its trade shows. But Parkview Electronics had never been approached or offered a sales account.

B23 ***Peter Ellis Audio***

(a) Dealer's observation

Mr Norman of Peter Ellis Audio, Newark, Notts, told us that he had been refused supply of Panasonic VCRs on the grounds that the locality was already supplied. The Technics representative had been able to arrange one-off sales of Panasonic VCRs on the understanding that they were not displayed in the shop.

(b) Supplier's response

Panasonic told us that Peter Ellis Audio was a hi-fi dealer holding a Technics hi-fi account. It had wanted to obtain an extremely small volume of Panasonic's visual products which had not justified the expense of opening a Panasonic account for VCRs. Therefore the Technics Area Sales Manager had arranged to order VCRs for Mr Norman on a one-off basis through his audio account.

B24 ***SRS 265***

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Panasonic VCRs on the grounds that the locality was already supplied. He said that he wished to remain anonymous as he was currently in discussions with Panasonic regarding a possible dealership agreement.

(b) Supplier's response

Panasonic told us that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

Samsung

B25 ***Alphavision****

(a) Dealer's observation

Mr J Bardsley of Alphavision, Eastbourne, told us that Samsung's refusal to supply him with VCRs was common practice in the trade and might reflect pressure on suppliers from large retailers telling them not to supply smaller competitors.

(b) Supplier's response

Samsung said that Alphavision was a one-shop operation in Eastbourne in a secondary position with limited passing trade. Samsung's Area Sales Manager had not believed that Alphavision would be able to meet Samsung's turnover criteria, and therefore it was not in a position to open the account on a direct basis. However, Alphavision was able to purchase Samsung products via one of its four UK distributors. Samsung said that if Alphavision was in a position to place a sizeable order, Samsung would be happy to supply it.

(c) Dealer's response

Mr Bardsley responded by telling us that he would have been prepared to accept Samsung's explanation if he had known exactly what turnover criteria Samsung had expected; Alphavision was supplied by other leading suppliers but Samsung had not told it what level of expected turnover it required. Since he had written to Samsung in December 1995 the only communication Mr Bardsley had received had been a phone call from Samsung's Area Sales Manager (which Mr Bardsley thought was in March 1996). During this call the Area Sales Manager had made an appointment for that day which he did not keep. Mr Bardsley had never met a representative from Samsung on his premises.

Sanyo

B26 ***Makro****

(a) Dealer's observation

Makro told us that Sanyo had withdrawn supply of VCRs with effect from 1995.

(b) Supplier's response

Sanyo told us that its decision not to supply Makro from 1995 was in accordance with its policy of not supplying wholesalers, which it adopted in 1994.

B27 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that Sanyo would not supply it with VCRs.

(b) Supplier's response

Sanyo told us that its principal concerns in deciding not to supply PriceCostco had been:

- (i) Sanyo considered PriceCostco to be a wholesaler and as such would not supply it; and
- (ii) PriceCostco did not meet the criteria required for being a Sanyo dealer.

Nevertheless, despite a letter from the OFT to PriceCostco on or about 6 September 1994, PriceCostco had

not contacted Sanyo again until May 1995, shortly after the reference to the MMC was made.

PriceCostco had last contacted Sanyo on 20 July 1995 by telephone to have discussions on a possible Sanyo Dealership Agreement. The importance that Sanyo attached to merchandising, display and training had been emphasized. A copy of Sanyo's approval criteria and the approved dealership agreement had been handed to PriceCostco for its consideration. Sanyo had said that it would consider PriceCostco's comments on Sanyo's approved dealership agreement and provide a response to PriceCostco in early September. On 5 September 1995 Sanyo had written to PriceCostco indicating its concerns and adding that Sanyo would welcome hearing from PriceCostco whether it envisaged being able to meet Sanyo's approval conditions. Since that date, PriceCostco had not responded and therefore Sanyo had not pursued the matter further.

Sanyo also said that at the meeting on 18 May PriceCostco had mentioned that the majority of its customers were buying in bulk for resale, with little self-purchasing. Sanyo said that this clearly demonstrated that PriceCostco's main activity was wholesaling.

Sony

B28 PriceCostco*

(a) Dealer's observation

PriceCostco told us that on 21 July 1995 Sony had refused to supply it with VCRs because it did not meet Sony's requirements of an authorized dealer.

(b) Supplier's response

Sony told us that PriceCostco's account was correct. Following site visits Sony had made to PriceCostco, it had written to PriceCostco explaining where it needed to upgrade its standards before Sony could supply reference goods. PriceCostco had not replied.

B29 Broadbent Television*

(a) Dealer's observation

Mr J Halstead of Broadbent Television, Huddersfield, told us that he had attempted unsuccessfully to obtain supplies of Sony VCRs 1993 and 1994. Sony's initial refusal to supply had been on the grounds that it did not need further Sony dealers in the locality, and later, after Sony had introduced its PEDAs, because Broadbent Television did not fulfil the PEDA requirements including: interior decoration; merchandising; display; demonstration and storage facilities; product range; and because the premises gave the 'impression of being a rental and re-rental business, and not a high-quality specialist consumer electronics retail business'. Following several unsuccessful attempts by Broadbent Television to persuade Sony to change its decision (through meetings and correspondence), Sony had offered Broadbent Television a Sony dealership in April 1995 (which Broadbent Television had accepted). At that time Sony had stated that the reason for reversing its previous decision was 'improvements to the fit out and display facilities ... made since Sony's last visit to Broadbent Television'. Mr Halstead told us that he had made no 'fundamental' improvements to his premises, other than repainting a wall and removing a partition wall to increase the size of the showroom.

(b) Supplier's response

Sony said that the premises of Broadbent Television had failed to meet the requirements of its PEDA until 1995. Sony did not accept that there had been no improvements in the premises, as had been confirmed in a letter to Sony from Broadbent Television of 14 November 1994 in which Broadbent Television had stated that 'since your last recorded visit, we have once again improved our display'.

(a) Dealer's observation

Mr R C Hemmingsley of Colins Electrical (Colins), Kingstanding, Birmingham, told us that he was a member of CIH, which hitherto Sony had been reluctant to supply as a wholesaler. However, in 1996 Sony had offered to supply CIH on the condition that reference goods supplied for distribution through CIH's warehouse were to be restricted only to CIH members who were existing Sony account holders. Mr Hemmingsley believed that this restriction was contrary to fair competition.

(b) CIH's response

CIH told us that Sony supplied a considerable number of CIH members through CIH's group buying arrangements. CIH had held discussions with Sony with a view to purchasing reference goods for CIH's central stock. But the discussions had not been fruitful because Sony had been unable to meet the terms required by CIH.

(c) Supplier's response

Sony told us that it supplied a complete range of models of reference brown goods to members of CIH who were authorized under the terms of its selective distribution system. Sony was prevented under the terms of its PEDAs from supplying reference brown goods, either directly or indirectly, through distributors such as CIH to any dealer who did not meet these criteria. Sony was currently negotiating with CIH with a view to agreeing the commercial terms under which Sony would supply CIH with reference brown goods for its central stock, ie for resale to its members.

In March 1995 CIH had given Sony the names of 85 CIH members said to be interested in stocking Sony's products. Colins was one of those named. In May 1995 Sony had reviewed Colins' premises and found that it was primarily a white goods business whose premises did not meet the criteria of the PEDAs in some important respects.

As Mr Hemmingsley had not contacted Sony direct he had not been informed that his premises had been reviewed or of the results of that review. Since receiving this observation Sony had contacted Mr Hemmingsley to inform him of the unsuccessful review carried out in May 1995, and to notify him of Sony's Arbitration Policy. In view of the amount of time which had passed, it had also offered to carry out another review of Colins' premises. Mr Hemmingsley had not replied.

(a) Dealer's observation

Mr Little of Lisnasure Interiors, Dromore, Co Down, said that he had been refused supply of Sony VCRs in 1993/94 because the locality was already supplied.

(b) Supplier's response

Sony told us that prior to the introduction of its PEDAs in April 1993, the selective distribution criteria Sony used had allowed it to reject applicants on geographic grounds. 'Adequate dealer coverage' in the applicant's area had been the standard reason for an initial refusal, even where other grounds for rejection existed. Since it had received Mr Little's observation, Sony had carried out a review of his premises and could confirm that they did meet the criteria of the PEDAs. Accordingly Sony had written to Lisnasure Interiors asking if it would like to progress towards opening an account for the reference goods.

B32 ***Magnet Discount Warehouses****

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses told us that he had been refused supply of Sony VCRs in 1994/95 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that Magnet Discount Warehouses had applied for the supply of VCRs on 19 October 1993. Sony was not aware of any other application since then. Magnet Discount Warehouses had held a service and spares account with Sony for some considerable time although it did not appear to have purchased any goods since 1993.

Since receiving this observation Sony had carried out a review of the dealer's premises and could confirm that it met the criteria of the Sony PEDDA. Accordingly Sony had written to Mr Pitsillides asking him if he would like to progress towards opening an account for the reference brown goods.

(c) Dealer's response

Mr Pitsillides responded by telling us that Sony had opened an account with him in October 1996.

B33 ***Shadoos****

(a) Dealer's observation

Mr Haq of Shadoos, Wilmslow Road, Rusholme, Manchester, said that Sony had refused to supply him with VCRs in earlier years, but that (following his representations to the Area Manager) he had signed an agreement with Sony in April 1995. Shortly afterwards the Area Manager had changed, and his successor had halted the opening of the account, questioning whether the retailer met Sony's criteria. As at 16 December 1995 he had still been given no reason why his account had not been opened, nor had anyone from Sony visited his premises to see if they met Sony's criteria.

(b) Supplier's response

Sony told us that, contrary to company policy, its former local Area Manager had agreed to appoint Shadoos without having first carried out a proper review of the premises to ensure that they complied with Sony's PEDDA.

In October 1995 a review of Shadoos' premises had indicated that they fell below the relevant standards of the PEDDA. Sony had explained this to Mr Haq and written to him on 1 December 1995 confirming its position. Following receipt of Mr Haq's observation to the MMC, Sony had sent a further letter to Mr Haq clarifying Sony's position. Mr Haq had not replied.

B34 ***Mr Whistance****

(a) Dealer's observation

Mr B Whistance of Hereford told us that he had been refused supply of Sony VCRs in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that its local area representative covering Hereford had done so for around ten years and could not recall ever having had any contact with this dealer. Sony had no record, either formal or informal, of ever

having received any request from this dealer for supplies of VCRs. Since receiving Mr Whistance's observation Sony had carried out a review of the dealer's premises and could confirm that they did not meet the criteria of the PEDAs in some important respects. Sony had informed the dealer of its precise reasons in writing, suggested areas of improvement, and advised him of the terms of its Arbitration Policy. Mr Whistance had not replied.

(c) Dealer's response

Mr Whistance responded by telling us that he stood by his original statements that Sony had refused to supply him because it claimed the locality was already supplied.

B35 *SRS 110**

(a) Dealer's observation

This retailer (SRS 110) told us that Sony had refused to open an account with him for VCRs in 1993 on the grounds that the locality was already supplied. Sony had since approached him, in the summer of 1995, to ask if he would like to open an account because a nearby Sony Centre had closed. The retailer said that he wished to remain anonymous because he had just started an account with Sony and 'did not wish to sour a recently established relationship'.

(b) Supplier's response

Sony told us that the selective distribution criteria it previously used had allowed it to reject applicants on geographic grounds. During 1993 several applicants had been rejected on the basis of 'adequate dealer coverage' in the applicant's area. Sony often approached other local retailers with which Sony did not have an account when one of its dealers ceased trading. Sony believed this action was entirely proper. Sony said that it could not comment further on this observation without knowing the identity of the retailer.

B36 *Makro*

(a) Dealer's observation

Makro told us that it had been unable to obtain supply of Sony reference goods on a regular direct basis prior to 1994 when Makro International had agreed with Sony Europe that all Makro business divisions trading in Europe could sign Sony's PEDAs.

(b) Supplier's response

Sony told us that it had sold a wide range of reference goods to Makro since 1986. In 1992 it had supplied VCRs to Makro to the value of £42,000; in 1993, £146,000; and in 1994, £301,000.

B37 *SRS 265*

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Sony VCRs on the grounds that the locality was already supplied. The retailer said that he wished to remain anonymous as he was currently in discussions with Sony regarding a possible dealership agreement.

(b) Supplier's response

Sony said that the dealer's observation did not indicate the date on which the refusal was made. If it had been prior to the introduction of its PEDAs, the retailer's explanation could have been true. Otherwise, Sony could not comment without further information.

Toshiba

B38 ***Cargo Club****

(a) Dealer's observation

N&P told us that Toshiba had refused to supply its Cargo Club operation with VCRs.

(b) Supplier's response

Toshiba told us that it had attended a meeting with Cargo Club on Monday 6 December 1993 (arranged at Cargo Club's request) at which Cargo Club had outlined its strategy. It had informed Toshiba that its first store was due to open in February 1994 and that it would like to offer the Toshiba range of VCRs. Toshiba had told Cargo Club that it did not consider that Toshiba would gain any incremental business if it were to supply Cargo Club, and that Toshiba was experiencing difficulties in satisfying current demand for certain of its products. However, Toshiba had asked Cargo Club to send it any further information. From that date there had been no further communication between Toshiba and Cargo Club.

B39 ***PriceCostco****

(a) Dealer's observations

PriceCostco said that at a meeting on 4 May 1993, Toshiba's Sales Director had told it that Toshiba would not supply PriceCostco with VCRs. This decision was later reversed. PriceCostco began receiving direct supply of VCRs from Toshiba in September 1996.

(b) Supplier's response

Toshiba told us that, on 28 April 1993, at PriceCostco's request, Toshiba and PriceCostco had held an exploratory meeting. PriceCostco had outlined its plans for the UK within the next few years but had been unable to confirm the likely location of its stores. At a further meeting on 21 July 1993 PriceCostco had explained its philosophy although the location of the first PriceCostco warehouse club had still to be announced. PriceCostco had expressed an interest in selling certain Toshiba televisions (primarily large screens) and VCRs. Toshiba had indicated that it doubted whether there would be any incremental business for Toshiba were it to supply PriceCostco. Further, it had indicated that Toshiba was then experiencing some difficulty in meeting demand for certain of its products.

In April 1994, at a trade show, arrangements were made for Toshiba to visit PriceCostco's warehouse club at Thurrock. (PriceCostco had informed Toshiba that it was already stocking Toshiba large-screen televisions obtained from indirect sources.) During the subsequent meeting PriceCostco had been asked to give an indication of the level of sales it was achieving on those products but it had been unable to provide this information. Toshiba, therefore, had little means of gauging the level of business that might be achieved. Toshiba had told PriceCostco at that time that the position on supply had not changed from that set out during the July 1993 meeting. In 1996 Toshiba had begun supplying PriceCostco with VCRs.

B40 ***Kempsons****

(a) Dealer's observation

Mrs E Kempson of Kempsons, Hereford, told us that she had been refused supply of Toshiba VCRs in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Toshiba told us that the comment by Kempsons would seem to be consistent with Toshiba's practice of seeking new retailers where incremental business could be achieved.

(c) Dealer's response

Mrs Kempson said that her business stood by its original statement. Toshiba had refused supply of VCRs in 1994. The reason it had given was that the locality was already supplied and it was concerned that Kempsons would not be able to attain the necessary turnover for Toshiba.

Hi-fi systems

Aiwa

C1 ***Pact International Limited (wholesaler)****

(a) Dealer's observation

Pact of Peterborough told us that Aiwa had requested Pact to refrain from canvassing business from dealers in Northern Ireland and Scotland.

(b) Supplier's response

Aiwa told us that Excel was Aiwa's sole distributor to retailers in Scotland; Intek in Northern Ireland; and Pact was an Aiwa distributor in England and Wales, supplying small retailers.

Aiwa had given sole distribution rights in Scotland and Northern Ireland respectively to Excel and Intek to maximize the cost-effectiveness of distributing Aiwa products. In later appointing Pact as a distributor in England, Aiwa had not forbidden Pact to supply retailers in Scotland and Northern Ireland. But Aiwa did not want Pact to canvass actively in either locality because of the sole distribution rights Aiwa had awarded to Excel and Intek respectively.

By granting sole rights Aiwa placed significant responsibility on the wholesalers concerned. In its view, it was appropriate that their investment and commitment should be rewarded. Exclusivity was common throughout commercial life and accorded with EC and UK RTP legislation. However, Pact was a well-known wholesaler and there was nothing to prevent Aiwa's Scottish or Irish dealers seeking supply from Pact if they were unhappy with Excel or Intek; to Aiwa's knowledge some did so.

C2 ***Brighton Audio and TV****

(a) Dealer's observation

Mr Goble of Brighton Audio and TV (BAT), Brighton, Sussex, told us that he had been refused supply of Aiwa hi-fi systems during 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Aiwa told us that it had no record of any formal application for supply from BAT. However, it was a small outlet and the volume of the account would have been worth well below the threshold for direct supply. BAT was able to purchase Aiwa's reference goods from one of its wholesalers appointed to sell to retailers with a purchase requirement below £70,000 a year.

(c) Dealer's response

Mr Goble responded by telling us that in the 1993/94 financial year BAT had a turnover of over £1 million and several suppliers' accounts exceeded £50,000.

B&O

C3 ***JLP****

(a) Dealer's observation

JLP told us that it had wished to sell some models of B&O's hi-fi systems in a few branches. But it was unable to do so because B&O had stipulated that JLP should stock a minimum range, presented in a way that did not suit it.

(b) Supplier's response

B&O told us it considered that a minimum stocking requirement and its required presentation were essential parts of its distribution system. The former ensured that consumers were offered a choice of products whilst the latter not only reinforced the quality image of the B&O brand name but ensured that consumers received the best available pre-sale information.

C4 ***Sevenoaks Hi-Fi & Video****

(a) Dealer's observation

Sevenoaks Hi-Fi & Video (Sevenoaks Hi-Fi) told us that B&O had terminated its dealer agreement with Sevenoaks Hi-Fi's Tunbridge Wells branch when it moved 100 yards down the road to larger premises on the grounds that the agreement was specific to the original site. B&O had refused to discuss the matter and soon afterwards had appointed a new solus B&O dealership in the area.

(b) Supplier's response

B&O said that its contract with Sevenoaks Hi-Fi in respect of its Tunbridge Wells branch was premises-specific; B&O was entitled to terminate the dealership if Sevenoaks Hi-Fi moved to alternative premises without first obtaining the prior written consent of B&O. Sevenoaks Hi-Fi had failed to inform B&O or discuss its plans to move to the new premises. In particular, there had been no discussion about dedicated sales staff, staff training or fixture and fittings.

(c) Dealer's response

Sevenoaks Hi-Fi responded by telling us that it contested B&O's contention that it had failed to inform B&O or discuss its plans to move to the new premises. The plans had been discussed at meetings between the Managing Director of Sevenoaks Hi-Fi and the local B&O representative. It was not normal for notice in writing to be insisted upon when there was an active dealer/supplier relationship. B&O had made no comment, written or otherwise, that Sevenoaks Hi-Fi would need to obtain specific written permission to move the B&O account 100 yards down the road. There had been discussion between Sevenoaks Hi-Fi and B&O concerning fixtures and fittings at the new store as Sevenoaks Hi-Fi was making specific space available for B&O products. There had been no need for specific discussion about staff and training as the staff had not changed.

C5 ***MacPhersons Home Electrics***

(a) Dealer's observation

Mr MacPherson of MacPhersons Home Electrics, Harborne, Birmingham, told us that he was refused supply of B&O hi-fi systems in 1993 on the grounds that he was selling white goods on the same premises.

(b) Supplier's response

B&O told us that it did not have any recollection or written record of Mr MacPherson's application to become a dealer. The reason he gave for B&O's refusal to supply him seemed somewhat curious in view of the fact that B&O currently had a number of dealers that also sold white goods on the same premises.

Hitachi

C6 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that, as at 21 July 1995, Hitachi would not discuss supply of hi-fi systems with it.

(b) Supplier's response

Hitachi said that it was not aware of refusing to discuss supply with PriceCostco on 21 July 1995. PriceCostco had an established channel of communication with Hitachi's Director of Sales and Marketing and he was not aware of there being any approach then.

(c) Dealer's response

PriceCostco responded by telling us that its buyer had left at least six messages for Hitachi's Director of Sales and Marketing during the autumn and winter of 1995. There had been no response and PriceCostco's buyer had finally given up.

JVC

C7 **Cargo Club***

(a) Dealer's observation

N&P told us that JVC had refused to supply its Cargo Club operation with hi-fi systems.

(b) Supplier's response

JVC told us that, at N&P's request, a meeting had taken place between JVC and N&P on 18 August 1993 at which N&P had explained its then proposed Cargo Club venture. At that time there had been no Cargo Club premises anywhere in the UK so it had been impossible for JVC to carry out its usual inspection of trading premises to ascertain whether Cargo Club would have satisfied JVC's dealership criteria. In addition, N&P had not been able to produce the financial information about Cargo Club which JVC would have needed to open an account. JVC had suggested that N&P should approach it again when Cargo Club was ready to begin trading.

On 11 November 1993 N&P had told JVC that it was still interested in Cargo Club becoming a JVC authorized dealer. However, as the trading premises of Cargo Club could still not be inspected, and no further information about its financial position was available, JVC had written to N&P on 3 December 1993, stating that JVC was not in a position to provide N&P with an account.

JVC had attended the opening ceremony of the first Cargo Club outlet which opened in the UK in March 1994. No discussions had taken place at that event about Cargo Club opening an account with JVC. An article in *ERT Weekly* in August 1994, in which JVC had said that Cargo Club had been unable to meet its requirements for supply, had prompted Cargo Club to contact JVC again. JVC had then suggested that Cargo Club should renew its application for an account but it did not do so. JVC believed that the fact that Cargo Club had gone out of business about a year after commencing trading underlined the correctness of JVC's policy of going through the proper procedures when opening an account.

(c) Dealer's response

N&P responded by telling us that Cargo Club had been a direct subsidiary of N&P and would have had the backing and guarantees of its parent. N&P believed JVC was simply stalling and using the financial criteria as an excuse. Cargo Club had ceased trading but it had not gone out of business (in the sense that all its creditors were paid in full).

(a) Dealer's observation

PriceCostco told us that in a letter of 1 November 1994 JVC stated, not for the first time, that it would not supply PriceCostco with hi-fi systems.

(b) Supplier's response

JVC told us that, in April 1993, representatives of PriceCostco had attended the JVC Trade Show where they had discussed with JVC the possibility of PriceCostco becoming an authorized JVC dealer. A meeting between JVC and PriceCostco had followed on 13 May 1993. At this meeting, PriceCostco had explained its operations in the USA and its intentions in relation to the UK. At that time, PriceCostco had not begun to trade in the UK so JVC had been unable to carry out its usual inspection of trading premises. As a result, JVC had written to PriceCostco on 24 May 1993 advising PriceCostco to contact it again when ready to open for business.

When PriceCostco opened warehouse clubs in Thurrock and Watford, in November 1993 and June 1994 respectively, JVC had not been asked to supply those outlets. However, JVC heard that PriceCostco in Watford was stocking JVC products; it had therefore visited PriceCostco on 18 August 1994 to see what stock was being held and to ascertain if PriceCostco was able to comply with JVC's Dealership Agreement.

On 6 October 1994, at PriceCostco's invitation, JVC had attended a meeting at PriceCostco in Watford at which JVC advised PriceCostco of JVC's account criteria and the terms of its Dealership Agreement. JVC said that it and PriceCostco had agreed that the only provision with which PriceCostco could comply was the clause which required that the dealer should maintain an adequate supply and stock of free leaflets and brochures on JVC's products. In particular, PriceCostco had stated that the reason it could not comply with JVC's other requirements was that PriceCostco was not actually a retailer but rather like a social club selling products to members.

PriceCostco had suggested that JVC should prepare a contract specially tailored to meet PriceCostco's method of trading. JVC had refused to do so. It had explained that all JVC products were sold subject to its Dealership Agreement. This agreement could not be varied between dealers. JVC had advised PriceCostco that JVC would reconsider PriceCostco's application for an account if it could meet the criteria of JVC's Dealership Agreement, and present a business plan to enable JVC to satisfy itself about PriceCostco's creditworthiness. PriceCostco had replied that it was not its policy to supply such financial and business information to a supplier. On 24 October 1994 JVC had written to PriceCostco confirming the reasons why it could not open an account at that time. PriceCostco had replied on 27 October 1994 but nothing in its letter had led JVC to change its view that PriceCostco could not comply with its Dealership Agreement. JVC had written to PriceCostco on 1 November 1994 confirming JVC's position; and indicating that it was ready to reconsider the application if PriceCostco were able to comply with its Dealership Agreement terms. JVC had not received any further formal requests from PriceCostco to reconsider its application for an account.

(a) Dealer's observation

Mr Goble of Brighton Audio and TV (BAT), Brighton, Sussex, told us that he had been refused supply of JVC hi-fi systems during 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

JVC told us that after preliminary discussions with BAT it had refused to appoint BAT as an authorized dealer in 1993.

C10 **N&P**

(a) Dealer's observation

N&P told us that it had been refused supply of hi-fi systems by JVC.

(b) Supplier's response

JVC told us that it had never received a request for supplies from N&P's Trade and Business Warehouse.

C11 **Savacentre**

(a) Dealer's observation

Savacentre told us that in 1994 it had been impossible to obtain supplies of JVC hi-fi systems. It had held discussions with JVC in April of that year, but no reasons had been given for its failure to supply.

(b) Supplier's response

JVC confirmed that it had refused to supply Savacentre at that time. JVC had taken part in preliminary discussions with Savacentre but during these discussions JVC had discovered that Savacentre did not have any after-sales service facility (whether internal to Savacentre or through a third party service agent). Instead, Savacentre had indicated that it expected to be able to return all faulty products to JVC for credit. This would have meant JVC incurring significant costs with the result that the account would not have been cost-effective to maintain. Savacentre was appointed as an authorized JVC dealer in May 1996.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from JVC to substantiate these views. Savacentre said that it had since entered into a Dealership Agreement with JVC.

Kenwood

Various retailers*

(a) Dealers' observations (6)

C12 * Mr Little of Lisnasure Interiors, Dromore, Co Down, said that he had been refused supply of Kenwood hi-fi systems in 1993/94 on the grounds that the locality was already supplied.

C13 * Mr Mannering of Mannering & Sons Ltd, Harrow, said that Kenwood had refused to supply him with hi-fi systems in 1993 on the grounds that the locality was already supplied.

C14 * Mr Charlesworth of Charlesworth of Crewe Ltd, Hightown, Crewe, said that he had been refused supply of Kenwood hi-fi systems in 1993 on the grounds that the locality was already supplied.

C15 * Mr Smith of Ancrum Electronics, Dundee, said that he had been refused supply of Kenwood hi-fi systems around July 1994 on the grounds that the locality was already supplied.

C16 * Mr Duff of S&R Electric Ltd, Belfast, said that he had been refused supply of Kenwood hi-fi systems on more than one occasion on the grounds that the locality was already supplied (the Kenwood representative had told him he could be considered for supply if another Kenwood retailer in the area were to cease trading).

C17 * Mr Tyson, of Anglian Home Entertainment, Ipswich, Suffolk, said that he had been

refused supply of Kenwood hi-fi systems in March 1993 on the grounds that Kenwood was not seeking any additional outlets locally at that time.

(b) Supplier's response

Kenwood told us that the observations at cases C12 to C17 indicated to it that, at some time in the past, Kenwood's sales staff might have acted in a way inconsistent with its policy on appointing authorized retailers. Kenwood had instituted a compliance policy and training programme which, *inter alia*, made it clear that Kenwood did not seek in any way to limit the number of authorized retailers supplying Kenwood's products in any particular area. Kenwood stated that it had no record of any written requests from the dealers whose observations are at cases C12 to C17, and so it had no evidence to support or deny the allegations. Kenwood suggested that its sales staff may have believed that making such comments caused less friction than telling prospective applicants that their outlets did not meet Kenwood's selection criteria.

LG

C18 ***Pact International Limited (wholesaler)****

(a) Dealer's observation

Pact, of Peterborough, told us that the agreement it had with LG excluded Pact's right to distribute hi-fi systems to dealers in Northern Ireland.

(b) Supplier's response

LG told us that, prior to its appointment of Pact as an authorized wholesaler of Goldstar products, LG had already appointed wholesalers in Northern Ireland to satisfy the Northern Ireland market.

Marantz

C19 ***Anglian Home Entertainment***

(a) Dealer's observation

Mr Tyson of Anglian Home Entertainment, Ipswich, Suffolk, told us that he had been refused supply of hi-fi systems by Marantz in October 1993 on the grounds that Marantz was not seeking any additional outlets locally at that time.

(b) Supplier's response

Marantz told us that it had not received a formal application for an account from Anglian Home Entertainment. It was normal Marantz policy to encourage all dealership applications to be in writing so that Marantz could determine the creditworthiness of each application.

(c) Dealer's response

Mr Tyson responded by saying that he did not see that there was necessarily a conflict of facts, simply that his approach to Marantz for supply of hi-fi systems, and Marantz's response, had been made orally; consequently a written application had never been invited nor made.

Panasonic

C20 ***Cargo Club****

(a) Dealer's observation

N&P told us that Panasonic had refused to supply its Cargo Club operation with hi-fi systems.

(b) Supplier's response

Panasonic told us that it had offered to supply Cargo Club with non-reference goods which required minimal or no investment by the retailer in pre- or post-sales service.

(c) Dealer's response

N&P said it regarded that ground of refusal as spurious since it already dealt with other suppliers of these goods and had had no complaints about the service it provided.

C21 ***PriceCostco****

(a) Dealer's observation

PriceCostco said that on 12 June 1995 it had asked Panasonic to supply hi-fi systems but it had been refused, not for the first time. Panasonic had offered only non-reference goods and had not responded to PriceCostco's request for Panasonic's premier range products.

(b) Supplier's response

Panasonic said that it supplied PriceCostco with products requiring minimal or no pre- or after-sales service. Panasonic did not currently supply reference brown goods to PriceCostco for the following reasons:

- (i) *Pre-sales service:* PriceCostco sold a wide range of products of which reference brown goods formed only a small proportion. Consumer electronic products were becoming increasingly sophisticated and many consumers needed guidance in their selection of products. Failure to give such guidance might result in the customer buying unsuitable products which would inevitably turn into an after-sales service problem. As yet PriceCostco had not put any resources into recruiting or training suitable staff able to provide such guidance. Panasonic believed that if PriceCostco were to succeed in the brown goods business, it must in due course invest in recruiting or training suitable staff. Panasonic expected that this problem should recede with time.
- (ii) *After-sales service:* Panasonic required its dealers, of whatever size, to provide first-line after-sales service to end-users of Panasonic products. After-sales service was either the responsibility of the dealer himself or available from an approved third party service agent. Sometimes this service needed to be provided at the home of a consumer, even if it was only to allow qualified persons to collect bulky equipment so that it might be transported safely. PriceCostco currently offered a return-for-exchange type of arrangement. Panasonic was not satisfied that this was suitable in all cases, particularly for larger items which were difficult for consumers to transport. Moreover, Panasonic had serious concerns about the subsequent disposal of products returned to PriceCostco. PriceCostco had stated that it required suppliers to accept back any product returned by the customer and to provide PriceCostco with a full credit. Panasonic did not have the necessary infrastructure in place to deal with this type of arrangement and was not prepared to trade on those terms.

Panasonic's sister company in the USA, Matsushita Electric Corporation of America (MECA), did considerable business with PriceCostco's US affiliate. Panasonic understood that MECA provided direct service to consumers and accordingly PriceCostco (US)'s service arrangements were not such an issue. This was not the case in the UK where first-line service was provided by dealers.

C22 ***A One Services****

(a) Dealer's observation

Mr McDonald of A One Services, Sutton, Surrey, said that he had been refused supply of Panasonic hi-fi systems in January 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that at the time Mr McDonald had requested supplies of the reference goods, there had been no reasonable expectation that the volume of sales of Panasonic products in the area as a whole would be increased by appointing a further authorized dealer for brown goods. Panasonic had opened an account with A One Services for domestic appliances (white goods) but was not aware of any further request by Mr McDonald for the supply of any brown goods.

C23 ***N&P***

(a) Dealer's observation

N&P told us that Panasonic had refused to supply it with hi-fi systems.

(b) Supplier's response

Panasonic told us it was not aware that N&P had any interest in the reference goods, other than in the context of its former business, Cargo Club.

(c) Dealer's response

N&P said that it believed Panasonic had not supplied either of its businesses with hi-fi systems because of Panasonic's stated requirement that N&P should provide an after-sales service.

C24 ***Savacentre***

(a) Dealer's observation

Savacentre told us that it had been impossible to obtain supplies of Panasonic hi-fi systems. Discussions had been held between Savacentre and Panasonic in April 1994 but Panasonic had given no reasons for its failure to supply.

(b) Supplier's response

Panasonic told us that its National Accounts Manager for home appliances (white goods) recalled that Savacentre had asked him about supplies of brown goods, but he had explained that he was not responsible for those products and that Savacentre would need to speak to the relevant people at Panasonic. Nobody at Panasonic could recollect being requested for supplies of brown goods orally by Savacentre and Panasonic had no record of any written request by Savacentre.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from Panasonic to substantiate these views.

Peter Ellis Audio

(a) Dealer's observations (2)

Mr Norman of Peter Ellis Audio, Newark, Notts, told us that:

C25 He had been refused supply of Panasonic hi-fi systems on the grounds that the locality was already supplied. The Technics representative had been able to arrange one-off sales of Panasonic hi-fi systems on the understanding that they were not displayed in the shop.

C26 In order to maintain its status and improved trading terms as a Technics hi-fi specialist dealer, Peter Ellis Audio was required by Technics to allocate a certain amount of display area to Technics hi-fi systems.

(b) Supplier's response

Panasonic told us that, in respect of the first observation (C25), Peter Ellis Audio was a hi-fi dealer with a Technics hi-fi account. Mr Norman had wanted to obtain an extremely small volume of Panasonic hi-fi systems which had not justified the expense of opening a Panasonic hi-fi systems account. Therefore the Technics Area Sales Manager had arranged to order hi-fi systems for Peter Ellis Audio on a one-off basis. Regarding the second observation (C26), as a Technics hi-fi specialist Peter Ellis Audio was not required to allocate any specified display area in respect of Technics products.

Panasonic (Technics)

C27 ***Freemans****

(a) Dealer's observation

Freemans told us that Panasonic had refused to supply it with Technics hi-fi systems on the grounds that the image given in Freemans' mail order catalogue was unacceptable.

(b) Supplier's response

Panasonic told us that business with Freemans was relatively new. Panasonic staff had no recollection of discussing the supply of Technics systems specifically with Freemans. However, Panasonic staff did recollect that the issue of Technics branded products had been raised by Freemans.

The majority of the Technics product portfolio was made up of hi-fi separates which were supplied through specialist outlets. Panasonic would have concerns about supplying such products to Freemans. Panasonic believed this to be a legitimate concern in line with its criteria for supply. Panasonic did not believe that the style of the Freemans catalogue was consistent with the particularly high-quality brand image of Technics branded products.

C28 ***SRS 88***

(a) Dealer's observation

This retailer (SRS 88) said that in 1993 he had been refused supply of hi-fi systems by Technics. He had applied again in early September 1995. The Technics representative had called and told him that there could be difficulties. Technics later reconsidered his request and he was awarded a dealership in 1996. The retailer said that he wished to remain anonymous because his application to open an account with Technics had been successful since he first made the observation.

(b) Supplier's response

Panasonic said that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

Pioneer

C29 ***S&R Electric Ltd****

(a) Dealer's observation

Mr Duff of S&R Electric Ltd, Belfast, said that he had obtained Pioneer hi-fi systems from a local distributor, but when (following a reorganization) Pioneer ceased to supply that distributor, Pioneer had refused him direct supply of those goods on the grounds that the locality was already supplied.

(b) Supplier's response

Pioneer told us that at the time Mr Duff had requested supplies, Pioneer already supplied two dealers in Belfast. The local area manager had considered that to supply Pioneer goods to another retail outlet would result in geographic over-representation in an area which was already administratively difficult to supply. Pioneer had arranged to visit S&R Electric in March 1997 to reappraise the situation. Pioneer said that S&R Electric was a member of CIH's local group in Northern Ireland (which was a Pioneer customer) so it already had the facility to obtain Pioneer's products.

C30 ***PriceCostco***

(a) Dealer's observation

PriceCostco told us that Pioneer had been reluctant to supply it with hi-fi systems, although in July 1995 Pioneer had expressed a willingness to commence a dialogue.

(b) Supplier's response

Pioneer said that it rejected the suggestion that it had been reluctant to supply PriceCostco. Its letter to PriceCostco of 4 July 1995 had noted that there had been only one exchange with PriceCostco over the last two or so years. Furthermore, the letter had invited PriceCostco to enter into negotiations for the supply of Pioneer goods. Pioneer had not had a response from PriceCostco.

(c) Dealer's response

PriceCostco responded by telling us that on 4 July 1995 it had tried to follow up an earlier meeting with Pioneer but without success. Its most recent contact had been on 26 June 1996 when it had left a message with Pioneer.

C31 ***Sonics Hi-Fi***

(a) Dealer's observation

Mr Sharma of Sonics Hi-Fi, Windsor, told us that over the last four years to January 1997 he had tried unsuccessfully to obtain supply of hi-fi systems from Pioneer. He had requested supplies at trade shows, by telephone and letter but Pioneer had made it clear that it did not want to enter into a dealership agreement with him. Various reasons had been given over the years, including 'the Windsor area being well covered' and 'Pioneer did not like his discounting'. In the majority of cases Pioneer had not followed up Mr Sharma's requests, that is no representative had visited the shop, and Mr Sharma had assumed that Pioneer was not interested in him and did not want him to sell its products.

(b) Supplier's response

Pioneer told us that it had not refused supply to Sonics Hi-Fi. In 1990 Mr Sharma had telephoned Pioneer's Area Sales Manager but no firm date for an appointment had been made. As this was not followed up by either party no meeting had been arranged. Since 1990, it had been common practice for dealers attending Pioneer's trade shows to sign their names in registration books. Pioneer had checked its records and Mr Sharma's signature did not appear in any of these books. At no time during the past four years had Mr Sharma made any contact whatsoever, by telephone or in writing, whether with a view to opening a trading account or to complain that Pioneer was unwilling, or had refused, to open such an account. The call in 1990 was the last time that Pioneer's Area Sales Manager recollected any contact with Mr Sharma until the telephone call from Mr Sharma that set up the meeting in November 1996 which was subsequently filmed secretly by the BBC for its *Panorama* programme (see paragraph 10.41).

Pioneer had arranged this meeting because Mr Sharma had expressed an interest in purchasing and selling Pioneer home electronic products. In Pioneer's view, the fact that its Area Sales Manager had followed up Mr Sharma's call by visiting Sonics Hi-Fi was evidence that Pioneer had considered Mr Sharma as a prospective dealer. Pioneer said that it had written to Mr Sharma on 8 January 1997 enclosing a Customer Account Application Form and two Dealer Agreements for Mr Sharma to complete. As at 14 February 1997 Pioneer had received no acknowledgement and no completed paperwork from Mr Sharma.

(c) Dealer's response

Mr Sharma told us that he was uncertain about the dates of his conversations with Pioneer, and his attendance at trade shows. Nevertheless he had first tried to obtain supplies of Pioneer reference goods many years ago. In Mr Sharma's view, as evidenced by the interview with Pioneer's Area Sales Manager, which the BBC *Panorama* programme had filmed, Pioneer had been unwilling to supply Sonics Hi-Fi, a situation that still prevailed. Mr Sharma said that he had not completed Pioneer's dealership form because he did not believe it had been sent to him in good faith. If Pioneer had genuinely been interested in opening an account with him, its representative would have called in person to discuss what goods were involved and in what quantities- thereafter a dealership application would have been completed.

Samsung

C32 ***Alphavision****

(a) Dealer's observation

Mr J Bardsley of Alphavision, Eastbourne, told us that Samsung's refusal to supply him with hi-fi systems was common practice in the trade and might reflect pressure on suppliers from large retailers telling them not to supply smaller competitors.

(b) Supplier's response

Samsung said that Alphavision was a one-shop operation in Eastbourne in a secondary position with limited passing trade. Samsung's Area Sales Manager had not believed that Alphavision would be able to meet Samsung's turnover criteria, and therefore it was not in a position to open the account on a direct basis. However, Alphavision was able to purchase Samsung products via one of its four UK distributors. Samsung said that if Alphavision was in a position to place a sizeable order, Samsung would be happy to supply it.

(c) Dealer's response

Mr Bardsley responded by telling us that he would have been prepared to accept Samsung's explanation if he had known exactly what turnover criteria Samsung had expected; Alphavision was supplied by other leading suppliers but Samsung had not told it what level of expected turnover it required. Since he had written to Samsung in December 1995 the only communication Mr Bardsley had received had been a phone call from Samsung's Area Sales Manager (which Mr Bardsley thought was in March 1996). During this call the Area Sales Manager had made an appointment for that day which he did not keep. Mr Bardsley had never met a

representative from Samsung on his premises.

Sanyo

C33 ***Makro****

(a) Dealer's observation

Makro told us that Sanyo had withdrawn supply of hi-fi systems with effect from 1995.

(b) Supplier's response

Sanyo told us that its decision not to supply Makro from 1995 was in accordance with its policy of not supplying wholesalers, which it adopted in 1994.

C34 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that Sanyo would not supply it with hi-fi systems.

(b) Supplier's response

Sanyo told us that its principal concerns in deciding not to supply PriceCostco had been:

- (i) that Sanyo considered PriceCostco to be a wholesaler and as such would not supply it; and
- (ii) that PriceCostco did not meet the criteria required for being a Sanyo dealer.

Nevertheless, despite a letter from the OFT to PriceCostco on or about 6 September 1994, PriceCostco had not contacted Sanyo again until May 1995 shortly after the reference to the MMC was made.

PriceCostco had last contacted Sanyo on 20 July 1995 by telephone to have discussions on a possible Sanyo Dealership Agreement. The importance that Sanyo attached to merchandizing, display and training had been emphasized. A copy of Sanyo's approval criteria and the approved dealership agreement had been handed to PriceCostco for its consideration. Sanyo had said that it would consider PriceCostco's comments on Sanyo's approved dealership agreement and provide a response to PriceCostco in early September. On 5 September 1995 Sanyo had written to PriceCostco indicating its concerns and adding that Sanyo would welcome hearing from PriceCostco whether it envisaged being able to meet Sanyo's approval conditions. Since that date, PriceCostco had not responded and therefore Sanyo had not pursued the matter further.

Sanyo also said that at the meeting on 18 May PriceCostco had mentioned that the majority of its customers were buying in bulk for resale, with little self-purchasing. Sanyo said that this clearly demonstrated that PriceCostco's main activity was wholesaling.

Sony

C35 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that on 21 July 1995 Sony had refused to supply it with hi-fi systems because it did not meet Sony's requirements of an authorized dealer.

(b) Supplier's response

Sony told us that PriceCostco's account was correct. Following site visits Sony had made to PriceCostco, it

had written to PriceCostco explaining where it needed to upgrade its standards before Sony could supply reference goods. PriceCostco had not replied.

C36 ***Broadbent Television****

(a) Dealer's observation

Mr J Halstead of Broadbent Television, Huddersfield, told us that he had attempted unsuccessfully to obtain supplies of Sony hi-fi systems 1993 and 1994. Sony's initial refusal to supply had been on the grounds that it did not need further Sony dealers in the locality, and later, after Sony had introduced its PEDAs, because Broadbent Television did not fulfil the PEDAs requirements including: interior decoration; merchandising; display; demonstration and storage facilities; product range; and because the premises gave the 'impression of being rental and re-rental business, and not high-quality specialist consumer electronics retail business'. Following several unsuccessful attempts by Broadbent Television to persuade Sony to change its decision (through meetings and correspondence), Sony had offered Broadbent Television a Sony dealership in April 1995 (which Broadbent Television had accepted). At that time Sony had stated that the reason for reversing its previous decision was 'improvements to the fit out and display facilities ... made since Sony's last visit to Broadbent Television'. Mr Halstead told us that he had made no 'fundamental' improvements to his premises, other than repainting a wall and removing a partition wall to increase the size of the showroom.

(b) Supplier's response

Sony said that the premises of Broadbent Television had failed to meet the requirements of its PEDAs until 1995. Sony did not accept that there had been no improvements in the premises, as had been confirmed in a letter to Sony from Broadbent Television of 14 November 1994 in which Broadbent Television had stated 'since your last recorded visit, we have once again improved our display'.

C37 ***Colins (Electrical Warehouse) Ltd****

(a) Dealer's observation

Mr R C Hemmingsley of Colins Electrical (Colins), Kingstanding, Birmingham, told us that he was a member of CIH, which hitherto Sony had been reluctant to supply as a wholesaler. However, in 1996 Sony had offered to supply CIH on the condition that reference goods supplied for distribution through CIH's warehouse were to be restricted only to CIH members who were existing Sony account holders. Mr Hemmingsley believed that this restriction was contrary to fair competition.

(b) CIH's response

CIH told us that Sony supplied a considerable number of CIH members through CIH's group buying arrangements. CIH had held discussions with Sony with a view to purchasing reference goods for CIH's central stock. But the discussions had not been fruitful because Sony had been unable to meet the terms required by CIH.

(c) Supplier's response

Sony told us that it supplied a complete range of models of reference brown goods to members of CIH who were authorized under the terms of its selective distribution system. Sony was prevented under the terms of its PEDAs from supplying reference brown goods, either directly or indirectly, through distributors such as CIH to any dealer who did not meet these criteria. Sony was currently negotiating with CIH with a view to agreeing the commercial terms under which Sony would supply CIH with reference brown goods for its central stock, ie for resale to its members.

In March 1995 CIH had given Sony the names of 85 CIH members said to be interested in stocking Sony's products. Colins was one of those named. In May 1995 Sony had reviewed Colins' premises and found that it was primarily a white goods business whose premises did not meet the criteria of the PEDAs in some important respects.

As Mr Hemmingsley had not contacted Sony direct he had not been informed that his premises had been reviewed or of the results of that review. Since receiving this observation Sony had contacted Mr Hemmingsley to inform him of the unsuccessful review carried out in May 1995, and to notify him of Sony's Arbitration Policy. In view of the amount of time which had passed, it had also offered to carry out another review of Colins' premises. Mr Hemmingsley had not replied.

C38 ***Lisnasure Interiors****

(a) Dealer's observation

Mr Little of Lisnasure Interiors, Dromore, Co Down, said that he had been refused supply of Sony hi-fi systems in 1993/94 because the locality was already supplied.

(b) Supplier's response

Sony told us that prior to the introduction of its PEDAs in April 1993, the selective distribution criteria Sony used had allowed it to reject applicants on geographic grounds. 'Adequate dealer coverage' in the applicant's area had been the standard reason for an initial refusal, even where other grounds for rejection existed. Since it had received Mr Little's observation, Sony had carried out a review of his premises and could confirm that they did meet the criteria of the PEDAs. Accordingly Sony had written to Lisnasure Interiors asking if it would like to progress towards opening an account.

C39 ***Magnet Discount Warehouses****

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses told us that he had been refused supply of Sony hi-fi systems in 1994/95 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that Magnet Discount Warehouses had applied for the supply of hi-fi systems on 19 October 1993. Sony was not aware of any other application since then. Magnet Discount Warehouses had held a service and spares account with Sony for some considerable time although it did not appear to have purchased any goods since 1993.

Since receiving this observation Sony carried out a review of the dealer's premises and could confirm that it met the criteria of the Sony PEDAs. Accordingly Sony had written to Mr Pitsillides asking him if he would like to progress towards opening an account for the reference brown goods.

(c) Dealer's response

Mr Pitsillides responded by telling us that Sony had opened an account with him in October 1996.

C40 ***Shadoos****

(a) Dealer's observation

Mr Haq of Shadoos, Wilmslow Road, Rusholme, Manchester, said that Sony had refused to supply him with hi-fi systems in earlier years, but that (following his representations to the Area Manager) he had signed an agreement with Sony in April 1995. Shortly afterwards the Area Manager had changed, and his successor had halted the opening of the account, questioning whether the retailer met Sony's criteria. As at 16 December

1995 he had still been given no reason why his account had not been opened, nor had anyone from Sony visited his premises to see if they met Sony's criteria.

(b) Supplier's response

Sony told us that, contrary to company policy, its former local Area Manager had agreed to appoint Shadoos without having first carried out a proper review of the premises to ensure that they complied with Sony's PEDAs.

In October 1995 a review of Shadoos' premises had indicated that they fell below the relevant standards of the PEDAs. Sony had explained this to Mr Haq and written to him on 1 December 1995 confirming its position. Following receipt of Mr Haq's observation to the MMC, Sony had sent a further letter to Mr Haq clarifying Sony's position. Mr Haq had not replied.

C41 **Mr Whistance***

(a) Dealer's observation

Mr B Whistance of Hereford told us that he had been refused supply of Sony hi-fi systems in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that its local area representative covering Hereford had done so for around ten years and could not recall ever having had any contact with this dealer. Sony had no record, either formal or informal, of ever having received any request from this dealer for supplies of hi-fi systems. Since receiving Mr Whistance's observation Sony had carried out a review of the dealer's premises and could confirm that they did not meet the criteria of the PEDAs in some important respects. Sony had informed the dealer of its precise reasons in writing, suggested areas of improvement, and advised him of the terms of its Arbitration Policy. Mr Whistance had not replied.

(c) Dealer's response

Mr Whistance responded by telling us that he stood by his original statements that Sony had refused to supply him because it claimed the locality was already supplied.

C42 **SRS 110***

(a) Dealer's observation

This retailer (SRS 110) told us that Sony had refused to open an account with him for hi-fi systems in 1993 on the grounds that the locality was already supplied. Sony had since approached him, in the summer of 1995, to ask if he would like to open an account because a nearby Sony Centre had closed. The retailer said that he wished to remain anonymous because he had just started an account with Sony and 'did not wish to sour a recently established relationship'.

(b) Supplier's response

Sony told us that the selective distribution criteria it previously used had allowed it to reject applicants on geographic grounds. During 1993 several applicants had been rejected on the basis of 'adequate dealer coverage' in the applicant's area. Sony often approached other local retailers with which Sony did not have an

account when one of its dealers ceased trading. Sony believed his action was entirely proper. Sony said that it could not comment further on the observation without knowing the identity of the retailer.

C43 ***Makro***

(a) Dealer's observation

Makro told us that it had been unable to obtain supply of Sony reference goods on a regular direct basis prior to 1994 when Makro International had agreed with Sony Europe that all Makro business divisions trading in Europe could sign Sony's PEDAs.

(b) Supplier's response

Sony told us that it had sold a wide range of reference goods to Makro since 1986. In 1992 it had sold hi-fi systems to Makro to the value of £77,000; in 1993, £240,000; and in 1994, £251,000.

C44 ***SRS 265***

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Sony hi-fi systems on the grounds that the locality was already supplied. The retailer said that he wished to remain anonymous as he was currently in discussions with Sony regarding a possible dealership agreement.

(b) Supplier's response

Sony said that the dealer's observation did not indicate the date on which the refusal was made. If it had been prior to the introduction of its PEDAs, the retailer's explanation could have been true. Otherwise, Sony could not comment without further information.

Camcorders

Hitachi

D1 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that, as at 21 July 1995, Hitachi would not discuss supply of camcorders with it.

(b) Supplier's response

Hitachi said that it was not aware of refusing to discuss supply with PriceCostco on 21 July 1995. PriceCostco had an established channel of communication with Hitachi's Director of Sales and Marketing and he was not aware of there being any approach then.

(c) Dealer's response

PriceCostco responded by telling us that its buyer had left at least six messages for Hitachi's Director of Sales and Marketing during the autumn and winter of 1995. There had been no response and PriceCostco's buyer had finally given up.

JVC

D2 **Cargo Club***

(a) Dealer's observation

N&P told us that JVC had refused to supply its Cargo Club operation with camcorders.

(b) Supplier's response

JVC told us that, at N&P's request, a meeting had taken place between JVC and N&P on 18 August 1993 at which N&P had explained its then proposed Cargo Club venture. At that time there had been no Cargo Club premises anywhere in the UK so it had been impossible for JVC to carry out its usual inspection of trading premises to ascertain whether Cargo Club would have satisfied JVC's dealership criteria. In addition, N&P had not been able to produce the financial information about Cargo Club which JVC would have needed to open an account. JVC had suggested that N&P should approach it again when Cargo Club was ready to begin trading.

On 11 November 1993 N&P had told JVC that it was still interested in Cargo Club becoming a JVC authorized dealer. However, as the trading premises of Cargo Club could still not be inspected, and no further information about its financial position was available, JVC had written to N&P on 3 December 1993, stating that JVC was not in a position to provide N&P with an account.

JVC had attended the opening ceremony of the first Cargo Club outlet which opened in the UK in March 1994. No discussions had taken place at that event about Cargo Club opening an account with JVC. An article in *ERT Weekly* in August 1994, in which JVC had said that Cargo Club had been unable to meet its requirements for supply, had prompted Cargo Club to contact JVC again. JVC had then suggested that Cargo Club should renew its application for an account, but it did not do so. JVC believed that the fact that Cargo Club had gone out of business about a year after commencing trading underlined the correctness of JVC's policy of going through the proper procedures when opening an account.

(c) Dealer's response

N&P responded by telling us that Cargo Club had been a direct subsidiary of N&P and would have had the backing and guarantees of its parent. N&P believed JVC was simply stalling and using the financial criteria as

an excuse. Cargo Club had ceased trading but it had not gone out of business (in the sense that all its creditors were paid in full).

D3 **PriceCostco***

(a) Dealer's observation

PriceCostco told us that in a letter of 1 November 1994 JVC stated, not for the first time, that it would not supply PriceCostco with camcorders.

(b) Supplier's response

JVC told us that, in April 1993, PriceCostco had attended the JVC Trade Show where it had discussed with JVC the possibility of PriceCostco becoming an authorized JVC dealer. A meeting between JVC and PriceCostco had followed on 13 May 1993. At this meeting, PriceCostco had explained its operations in the USA and its intentions in relation to the UK. At that time, PriceCostco had not begun to trade in the UK so JVC had been unable to carry out its usual inspection of trading premises. As a result, JVC had written to PriceCostco on 24 May 1993 advising it to contact JVC again when ready to open for business.

When PriceCostco opened warehouse clubs in Thurrock and Watford, in November 1993 and June 1994 respectively, JVC had not been asked to supply those outlets. However, JVC heard that PriceCostco in Watford was stocking JVC products; JVC had therefore visited PriceCostco on 18 August 1994 to see what stock was being held and to ascertain if PriceCostco was able to comply with JVC's Dealership Agreement.

On 6 October 1994, at PriceCostco's invitation, JVC had attended a meeting at PriceCostco in Watford at which JVC had advised PriceCostco of JVC's account criteria and the terms of its Dealership Agreement. JVC said that it and PriceCostco had agreed that the only provision with which PriceCostco could comply was the clause which required that the dealer should maintain an adequate supply and stock of free leaflets and brochures on JVC's products. In particular, PriceCostco had stated that the reason it could not comply with JVC's other requirements was that PriceCostco was not actually a retailer but rather like a social club selling products to members.

PriceCostco had asked JVC if it could prepare a contract specially tailored to meet PriceCostco's method of trading. JVC had refused to do so. It had explained that all JVC products were sold subject to its Dealership Agreement which could not be varied between dealers. JVC had advised PriceCostco that JVC would reconsider PriceCostco's application for an account if it could meet the criteria of JVC's Dealership Agreement, and present a business plan to enable JVC to satisfy itself about PriceCostco's creditworthiness. PriceCostco had replied that it was not its policy to supply such financial and business information to a supplier. On 24 October 1994 JVC had written to PriceCostco confirming the reasons why it could not open an account at that time. PriceCostco had replied on 27 October 1994 but nothing in its letter had led JVC to change its view that PriceCostco could not comply with its Dealership Agreement. JVC had written to PriceCostco on 1 November 1994 confirming the position; and indicating that it was ready to reconsider the application if PriceCostco were able to comply with its Dealership Agreement terms. JVC had not received any further formal requests from PriceCostco to reconsider its application for an account.

D4 **N&P**

(a) Dealer's observation

N&P told us that it had been refused supply of camcorders by JVC.

(b) Supplier's response

JVC told us that it had never received a request for supplies from N&P's Trade and Business Warehouse.

Panasonic

D5 ***Cargo Club****

(a) Dealer's observation

N&P told us that Panasonic had refused to supply its Cargo Club operation with camcorders.

(b) Supplier's response

Panasonic told us that it had offered to supply Cargo Club with non-reference goods which required minimal or no investment by the retailer in pre- or post-sales service.

(c) Dealer's response

N&P said it regarded that ground of refusal as spurious since it already dealt with other suppliers of these goods and had had no complaints about the service it provided.

D6 ***PriceCostco****

(a) Dealer's observation

PriceCostco said that on 12 June 1995 it had asked Panasonic to supply camcorders but it had been refused, not for the first time. Panasonic had offered only non-reference goods and had not responded to PriceCostco's request for Panasonic's premier range products.

(b) Supplier's response

Panasonic said that it supplied PriceCostco with products requiring minimal or no pre- or after-sales service. Panasonic did not currently supply reference brown goods to PriceCostco for the following reasons:

- (i) *Pre-sales service:* PriceCostco sold a wide range of products of which reference brown goods formed only a small proportion. Consumer electronic products were becoming increasingly sophisticated and many consumers needed guidance in their selection of products. Failure to give such guidance might result in the customer buying unsuitable products which would inevitably turn into an after-sales service problem. As yet PriceCostco had not put any resources into recruiting or training suitable staff able to provide such guidance. Panasonic believed that if PriceCostco were to succeed in the brown goods business, it must in due course invest in recruiting or training suitable staff. Panasonic expected that this problem should recede with time.
- (ii) *After-sales service:* Panasonic required its dealers, of whatever size, to provide first-line after-sales service to end-users of Panasonic products. After-sales service was either the responsibility of the dealer himself or available from an approved third party service agent. Sometimes this service needed to be provided at the home of a consumer, even if it was only to allow qualified persons to collect bulky equipment so that it might be transported safely. PriceCostco currently offered a return-for-exchange type of arrangement. Panasonic was not satisfied that this was suitable in all cases, particularly for larger items which were difficult for consumers to transport. Moreover, Panasonic had serious concerns about the subsequent disposal of products returned to PriceCostco. PriceCostco had stated that it required suppliers to accept back any product returned by the customer and to provide PriceCostco with a full credit. Panasonic did not have the necessary infrastructure in place to deal with this type of arrangement and was not prepared to trade on those terms.

Panasonic's sister company in the USA, Matsushita Electric Corporation of America (MECA), did considerable business with PriceCostco's US affiliate. Panasonic understood that MECA provided direct service to consumers and accordingly PriceCostco (US)'s service arrangements were not such an issue. This was not the case in the UK where first-line service was provided by dealers.

D7 ***A One Services****

(a) Dealer's observation

Mr McDonald of A One Services, Sutton, Surrey, said that he had been refused supply of Panasonic camcorders in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that at the time Mr McDonald had requested supplies of the reference goods, there had been no reasonable expectation that the volume of sales of Panasonic products in the area as a whole would be increased by appointing a further authorized dealer for brown goods. Panasonic had opened an account with A One Services for domestic appliances (white goods) but was not aware of any further request by Mr McDonald for the supply of any brown goods.

D8 ***Advance Repair Services****

(a) Dealer's observation

Mr Marley of Advance Repair Services (ARS), Whitstable, Kent, told us that he had been refused supply of Panasonic camcorders in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that ARS had formerly been supplied with Panasonic microwave ovens by a distributor. When the distributor ceased supplying retailers with Panasonic domestic microwave ovens, Panasonic had opened an account with ARS for white goods. The Panasonic Area Sales Manager responsible for the area for the past five years had never been approached by ARS requesting the supply of brown goods.

(c) Dealer's response

ARS responded by telling us that it had requested a brown goods account when Panasonic's Area Sales Manager called on it after its account for white goods was opened. The Area Sales Manager had told ARS that brown goods were dealt with by a different department but that someone else from Panasonic would be in touch soon. ARS had not phoned Panasonic as it assumed its request was being processed. When Panasonic's white goods Area Sales Manager next visited, ARS had told him that it had not received an application form to open a brown goods account. The Area Sales Manager had replied that enquiries had been made but ARS's request had been rejected because the locality was already supplied.

D9 ***Kings & Barnham****

(a) Dealer's observation

Mr King of Kings & Barnham, Fakenham, Norfolk, told us that he had been refused supply of Panasonic camcorders in 1994 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Kings & Barnham had been supplied with camcorders until 1988 when Panasonic had closed the account because of the low turnover. Mr King had subsequently applied for a new account but Panasonic had decided not to accept the application since all the indications had been that Kings & Barnham would only be able to generate the same low volume of sales as in 1988. Therefore there had been no justification for the expense of opening an account and maintaining sales and service support.

(c) Dealer's response

Mr King responded by saying that he was unable to comment on the account closed in 1988 as he had no records going back that far. The reason he had been given when he subsequently asked to open an account was that the area was already satisfactorily serviced by a nearby Panasonic dealer. Panasonic had made no mention of insufficient turnover.

D10 ***Selsdon Park TV & Video Centre****

(a) Dealer's observation

Mr Abbott of Selsdon Park TV and Video Centre (SPT), Surrey, told us that he had been refused supply of Panasonic camcorders in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that its Area Sales Manager had never heard of SPT. Panasonic had no record of any request for supply of camcorders by this retailer. If SPT was interested in opening an account, Panasonic would be happy to discuss this with the dealer.

(c) Dealer's response

Mr Abbott responded by saying that he had telephoned Panasonic in 1993 requesting a dealership. Panasonic's Area Sales Manager had visited SPT, and refused to open an account. There was, however, no written correspondence between SPT and Panasonic and Mr Abbott was, therefore, unable to substantiate what had happened.

D11 ***N&P***

(a) Dealer's observation

N&P told us that Panasonic had refused to supply it with camcorders.

(b) Supplier's response

Panasonic said it was not aware that N&P had any interest in camcorders, other than in the context of its former business, Cargo Club.

(c) Dealer's response

N&P said that it believed Panasonic had not supplied either of its businesses with camcorders because of Panasonic's stated requirement that N&P should provide an after-sales service.

D12 ***Savacentre***

(a) Dealer's observation

Savacentre told us that it had been impossible to obtain supplies of Panasonic camcorders. Discussions had been held between Savacentre and Panasonic in April 1994 but Panasonic had given no reasons for its failure to supply.

(b) Supplier's response

Panasonic told us that its National Accounts Manager for home appliances (white goods) recalled that Savacentre had asked him about supplies of brown goods, but he had explained that he was not responsible for

those products and that Savacentre would need to speak to the relevant people at Panasonic. Nobody at Panasonic could recollect being requested for supplies of brown goods orally by Savacentre and Panasonic had no record of any written request by Savacentre.

(c) Dealer's response

Savacentre responded by saying that its comments were impressions and views. There was nothing in writing from Panasonic to substantiate these views.

D13 ***Magnet Discount Warehouses***

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses, London N18, told us that he had been refused supply of Panasonic camcorders in 1993 on the grounds that the locality was already supplied.

(b) Supplier's response

Panasonic told us that Magnet Discount Warehouses had been a former customer of a distributor of Panasonic microwave ovens. When that distributor ceased supplying retailers in 1988, Panasonic had opened a trading account for white goods with Magnet Discount Warehouses. However, Magnet subsequently closed this account. The Panasonic Area Sales Manager responsible for the area since 1993 had never been approached by Mr Pitsillides for the supply of any brown goods; nor did Panasonic have any record of a request for supply.

(c) Dealer's response

Mr Pitsillides responded by telling us that his attempt to open an account with Panasonic went back several years. Some four to five years ago (1991/92) he had been advised by his Panasonic microwave representative to attend a Panasonic Trade Meeting as Panasonic had been seeking to open additional dealerships for reference brown goods. The then Regional Sales Director for Panasonic, in an open heated discussion with Mr Pitsillides, reiterated his position of 'no dealership'.

In 1993 a new Panasonic Regional Director was appointed. Mr Pitsillides had written again to Panasonic requesting supply of camcorders on 15 September 1993. He had not received a reply to his letter, nor to numerous telephone calls made to Panasonic. However, Panasonic's microwave representative had confirmed that Mr Pitsillides' letter had been received at Panasonic but that no reply or acknowledgement would be forthcoming. A few months later, without any notification or explanation, Panasonic had closed the microwave agency. In February 1997 Mr Pitsillides told us that he had heard no more from Panasonic. As he had since obtained supplies of another leading brand he had not pursued his application for the Panasonic brand.

D14 ***SRS 265***

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Panasonic camcorders on the grounds that the locality was already supplied. He said that he wished to remain anonymous as he was currently in discussions with Panasonic regarding a possible dealership agreement.

(b) Supplier's response

Panasonic told us that without knowing who the retailer was, it was unable to investigate the background to this observation, or to make any detailed response. Panasonic considered that in these circumstances, it would be inappropriate for us to rely on this observation.

Samsung

D15 ***Alphavision****

(a) Dealer's observation

Mr J Bardsley of Alphavision, Eastbourne, told us that Samsung's refusal to supply him with camcorders was common practice in the trade and might reflect pressure on suppliers from large retailers telling them not to supply smaller competitors.

(b) Supplier's response

Samsung said that Alphavision was a one-shop operation in Eastbourne in a secondary position with limited passing trade. Samsung's Area Sales Manager had not believed that Alphavision would be able to meet Samsung's turnover criteria, and therefore it was not in a position to open the account on a direct basis. However, Alphavision was able to purchase Samsung products via one of its four UK distributors. Samsung said that if Alphavision was in a position to place a sizeable order, Samsung would be happy to supply it.

(c) Dealer's response

Mr Bardsley responded by telling us that he would have been prepared to accept Samsung's explanation if he had known exactly what turnover criteria Samsung had expected; Alphavision was supplied by other leading suppliers but Samsung had not told it what level of expected turnover it required. Since he had written to Samsung in December 1995 the only communication Mr Bardsley had received had been a phone call from Samsung's Area Sales Manager (which Mr Bardsley thought was in March 1996). During this call the Area Sales Manager had made an appointment for that day which he did not keep. Mr Bardsley had never met a representative from Samsung on his premises.

Sanyo

D16 ***Makro****

(a) Dealer's observation

Makro told us that Sanyo had withdrawn supply of camcorders with effect from 1995.

(b) Supplier's response

Sanyo told us that its decision not to supply Makro from 1995 was in accordance with its policy of not supplying wholesalers, which it adopted in 1994.

D17 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that Sanyo would not supply it with camcorders.

(b) Supplier's response

Sanyo told us that its principal concerns in deciding not to supply PriceCostco had been:

- (i) that Sanyo considered PriceCostco to be a wholesaler and as such would not supply it; and
- (ii) that PriceCostco did not meet the criteria required for being a Sanyo dealer.

Nevertheless, despite a letter from the OFT to PriceCostco on or about 6 September 1994, PriceCostco had

not contacted Sanyo again until May 1995 shortly after the reference to the MMC was made.

PriceCostco had last contacted Sanyo on 20 July 1995 by telephone to have discussions on a possible Sanyo Dealership Agreement. The importance that Sanyo attached to merchandizing, display and training had been emphasized. A copy of Sanyo's approval criteria and the approved dealership agreement had been handed to PriceCostco for its consideration. Sanyo had said that it would consider PriceCostco's comments on Sanyo's approved dealership agreement and provide a response to PriceCostco in early September. On 5 September 1995 Sanyo had written to PriceCostco indicating its concerns and adding that Sanyo would welcome hearing from PriceCostco whether it envisaged being able to meet Sanyo's approval conditions. Since that date, PriceCostco had not responded and therefore Sanyo had not pursued the matter further.

Sanyo also said that at the meeting on 18 May PriceCostco had mentioned that the majority of its customers were buying in bulk for resale, with little self-purchasing. Sanyo said that this clearly demonstrated that PriceCostco's main activity was wholesaling.

Sony

D18 ***PriceCostco****

(a) Dealer's observation

PriceCostco told us that on 21 July 1995 Sony had refused to supply it with camcorders because it did not meet Sony's requirements of an authorized dealer.

(b) Supplier's response

Sony told us that PriceCostco's account was correct. Following site visits Sony had made to PriceCostco, it had written to PriceCostco explaining where it needed to upgrade its standards before Sony could supply reference goods. PriceCostco had not replied.

D19 ***Broadbent Television****

(a) Dealer's observation

Mr J Halstead of Broadbent Television, Huddersfield, told us that he had attempted unsuccessfully to obtain supplies of Sony camcorders 1993 and 1994. Sony's initial refusal to supply had been on the grounds that it did not need further Sony dealers in the locality, and later, after Sony had introduced its PEDAs, because Broadbent Television did not fulfil the PEDA requirements including: interior decoration; merchandising; display; demonstration and storage facilities; product range; and because the premises gave the 'impression of being rental and re-rental business, and not high quality specialist consumer electronics retail business'. Following several unsuccessful attempts by Broadbent Television to persuade Sony to change its decision (through meetings and correspondence), Sony had offered Broadbent Television a Sony dealership in April 1995 (which Broadbent Television had accepted). At that time Sony had stated that the reason for reversing its previous decision was 'improvements to the fit out and display facilities ... made since Sony's last visit to Broadbent Television'. Mr Halstead told us that he had made no 'fundamental' improvements to his premises, other than repainting a wall and removing a partition wall to increase the size of the showroom.

(b) Supplier's response

Sony said that the premises of Broadbent Television had failed to meet the requirements of its PEDA until 1995. Sony did not accept that there had been no improvements in the premises, as had been confirmed in a letter to Sony from Broadbent Television of 14 November 1994 in which Broadbent Television had stated that 'since your last recorded visit, we have once again improved our display'.

(a) Dealer's observation

Mr R C Hemmingsley of Colins Electrical (Colins), Kingstanding, Birmingham, told us that he was a member of CIH, which hitherto Sony had been reluctant to supply as a wholesaler. However, in 1996 Sony had offered to supply CIH on the condition that reference goods supplied for distribution through CIH's warehouse were to be restricted only to CIH members who were existing Sony account holders. Mr Hemmingsley believed that this restriction was contrary to fair competition.

(b) CIH's response

CIH told us that Sony supplied a considerable number of CIH members through CIH's group buying arrangements. CIH had held discussions with Sony with a view to purchasing reference goods for CIH's central stock. But the discussions had not been fruitful because Sony had been unable to meet the terms required by CIH.

(c) Supplier's response

Sony told us that it supplied a complete range of models of reference brown goods to members of CIH who were authorized under the terms of its selective distribution system. Sony was prevented under the terms of its PEDAs from supplying reference brown goods, either directly or indirectly, through distributors such as CIH to any dealer who did not meet these criteria. Sony was currently negotiating with CIH with a view to agreeing the commercial terms under which Sony would supply CIH with reference brown goods for its central stock, ie for resale to its members.

In March 1995 CIH had given Sony the names of 85 CIH members said to be interested in stocking Sony's products. Colins was one of those named. In May 1995 Sony had reviewed Colins' premises and found that it was primarily a white goods business whose premises did not meet the criteria of the PEDAs in some important respects.

As Mr Hemmingsley had not contacted Sony direct he had not been informed that his premises had been reviewed or of the results of that review. Since receiving this observation Sony had contacted Mr Hemmingsley to inform him of the unsuccessful review carried out in May 1995, and to notify him of Sony's Arbitration Policy. In view of the amount of time which had passed, it had also offered to carry out another review of Colins' premises. Mr Hemmingsley had not replied.

(a) Dealer's observation

Mr Little of Lisnasure Interiors, Dromore, Co Down, said that he had been refused supply of Sony camcorders in 1993/94 because the locality was already supplied.

(b) Supplier's response

Sony told us that prior to the introduction of its PEDAs in April 1993, the selective distribution criteria Sony used had allowed it to reject applicants on geographic grounds. 'Adequate dealer coverage' in the applicant's area had been the standard reason for an initial refusal, even where other grounds for rejection existed. Since it had received Mr Little's observation, Sony had carried out a review of his premises and could confirm that they did meet the criteria of the PEDAs. Accordingly Sony had written to Lisnasure Interiors asking if it would like to progress towards opening an account.

D22 **Magnet Discount Warehouses***

(a) Dealer's observation

Mr Pitsillides of Magnet Discount Warehouses told us that he had been refused supply of Sony camcorders in 1994/95 on the grounds that the locality was already supplied.

(b) Supplier's response

Sony told us that Magnet Discount Warehouses applied for the supply of camcorders in October 1993. Sony was not aware of any other application since then. Magnet Discount Warehouses had held a service and spares account with Sony for some considerable time although it did not appear to have purchased any goods since 1993.

Since receiving this observation Sony had carried out a review of the dealer's premises and could confirm that it met the criteria of the Sony PEDAs. Accordingly Sony had written to Mr Pitsillides asking him if he would like to progress towards opening an account for the reference brown goods.

(c) Dealer's response

Mr Pitsillides responded by telling us that Sony had opened an account with him in October 1966.

D23 **Shadoos***

(a) Dealer's observation

Mr Haq of Shadoos, Wilmslow Road, Rusholme, Manchester, said that Sony had refused to supply him with camcorders in earlier years, but that (following his representations to the Area Manager) he had signed an agreement with Sony in April 1995. Shortly afterwards the Area Manager had changed, and his successor had halted the opening of the account, questioning whether the retailer met Sony's criteria. As at 16 December 1995 he had still been given no reason why his account had not been opened, nor had anyone from Sony visited his premises to see if they met Sony's criteria.

(b) Supplier's response

Sony told us that, contrary to company policy, its former local Area Manager had agreed to appoint Shadoos without having first carried out a proper review of the premises to ensure that they complied with Sony's PEDAs.

In October 1995 a review of Shadoos' premises had indicated that they fell below the relevant standards of the PEDAs. Sony had explained this to Mr Haq and written to him on 1 December 1995 confirming its position. Following receipt of Mr Haq's observation to the MMC, Sony had sent a further letter to Mr Haq clarifying Sony's position. Mr Haq had not replied.

D24 **Makro**

(a) Dealer's observation

Makro told us that it had been unable to obtain supply of Sony reference goods on a regular direct basis prior to 1994 when Makro International had agreed with Sony Europe that all Makro business divisions trading in Europe could sign Sony's PEDAs.

(b) Supplier's response

Sony told us that it had sold a wide range of reference goods to Makro since 1986. In 1993 it had supplied

camcorders to Makro to the value of £60,000; and in 1994, £89,000.

D25 ***SRS 265***

(a) Dealer's observation

This retailer (SRS 265) said that he had been refused supply of Sony camcorders on the grounds that the locality was already supplied. The retailer said that he wished to remain anonymous as he was currently in discussions with Sony regarding a possible dealership agreement.

(b) Supplier's response

Sony said that the dealer's observation did not indicate the date on which the refusal was made. If it had been prior to the introduction of its PEDAs, the retailer's explanation could have been true. Otherwise, Sony could not comment without further information.